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LEGISLATIVE HISTORY

Public Law 89--77th Congress

Chapter 157--1st Session

H. R. 4534

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DIGEST OF PUBLIC LAW 89

ESTABLISHMENT OF PRIORITIES AND ALLOCATION OF MATERIAL FOR DEFENSE. Extends types of contracts to which the President or his representative may assign priorities to contracts or orders for foreign governments if vital to U. S. defense, contracts or orders necessary for defense, and subcontracts or suborders to fulfill contracts or orders necessary to defense. Authorizes assignment of delivery priority to such contracts or orders. Authorizes allocations of materials required for defense if shortage exists. Exempts contractors or order holders from liability for damages or penalties for default under any contract or order when caused by compliance with priorities.



INDEX AND SUMMARY OF HISTORY ON H. R. 4534

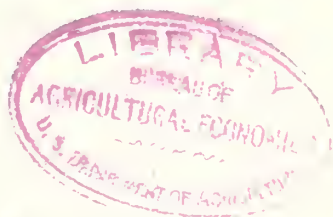
(Pages referred to are for debate in bound volumes of Congressional Record. Vol. 87, Pts. 3, 4, 5.)

April 25, 1941	Introduced by Mr. Vinson and referred to the Committee on Naval Affairs. (p.3325)
April 27, 1941	Hearings: House, H. R. 4534.
April 29, 1941	House Committee on Naval Affairs reported without amendment, House Report 460. Print of bill as reported. House Res. 139 submitted and referred to Committee on Rules. (pp. 3433-34).
May 2, 1941	House Committee on Rules reported House Report 490, recommending that H. Res. 139 be passed. Print of H. Res. 139 as reported.
May 8, 1941	H. R. 4534 debated in House and passed with amendment. (pp. 3799-3806).
May 9, 1941	Referred to Senate Committee on Military Affairs. Print of bill as referred. (p. 3913).
May 14, 1941	Hearings: Senate, H. R. 4534.
May 15, 1941	Senate Committee on Military Affairs reported without amendment. Senate Report 309. Print of bill as reported. (p. 4082)
May 16, 1941	Debated and passed Senate with amendment. (pp. 4149) Senate requests conference and appointed Conferees. (p. 4157).
May 19, 1941	House Conferees appointed. (p. 4202).
May 21, 1941	Conference Report. House Report. 603.
May 22, 1941	Conference Report agreed to in House. (pp.4325-26).
May 23, 1941	Conference Report agreed to in Senate. (p.4359).
May 31, 1941	Approved. Public Law 89.



77TH CONGRESS
1ST SESSION

H. R. 4534



IN THE HOUSE OF REPRESENTATIVES

APRIL 25, 1941

Mr. VINSON of Georgia introduced the following bill; which was referred to the Committee on Naval Affairs

A BILL

To amend the Act approved June 28, 1940, entitled "An Act to expedite the national defense, and for other purposes", in order to extend the power to establish priorities and allocate material.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That section 2 of the Act approved June 28, 1940 (Public,
4 Numbered 671, Seventy-sixth Congress), as amended, is
5 amended by inserting "(1)" after "SEC. 2. (a)" and by
6 adding at the end of subsection (a) thereof the following:

7 “(2) Deliveries of material to which priority may be
8 assigned pursuant to paragraph (1) shall include, in addition

1 to deliveries of material under contracts or orders of the Army
2 or Navy, deliveries of material under—

3 “(A) contracts or orders for the Government of any
4 country whose defense the President deems vital to the
5 defense of the United States under the terms of the Act
6 of March 11, 1941, entitled ‘An Act to promote the
7 defense of the United States’;

8 “(B) contracts or orders which the President shall
9 deem necessary or appropriate to promote the defense of
10 the United States; and

11 “(C) subcontracts or suborders which the President
12 shall deem necessary or appropriate to the fulfillment of
13 any contract or order as specified in this section.

14 Deliveries under any contract or order specified in this sec-
15 tion may be assigned priority over deliveries under any other
16 contract or order. Whenever the President is satisfied that
17 the fulfillment of requirements for the defense of the United
18 States will result in a shortage in the supply of any material
19 for defense or for private account or for export, the President
20 may allocate such material in such manner and to such
21 extent as he shall deem necessary or appropriate in the public
22 interest and to promote the national defense. The President
23 shall be entitled to obtain such information from, require
24 such reports by, and make such inspection of the premises
25 of, any person, firm, or corporation as may be necessary or

1 appropriate, in his discretion, to the enforcement or admin-
2 istration of the provisions of this section. No person, firm,
3 or corporation shall be held liable for damages or penalties
4 for any default under any contract or order which shall result
5 directly or indirectly from his compliance with any rule,
6 regulation, or order issued under this section. The President
7 may exercise any power, authority, or discretion conferred
8 on him by this section, through such department, agency,
9 or officer of the Government as he may direct and in
10 conformity with any rules and regulations which he may
11 prescribe.”

A BILL

To amend the Act approved June 28, 1940, entitled "An Act to expedite the national defense, and for other purposes", in order to extend the power to establish priorities and allocate material.

By Mr. VINSON of Georgia

APRIL 25, 1941

Referred to the Committee on Naval Affairs

HR-4534
Hearing

[No. 77]

✓
HEARING ON H. R. 4534, TO AMEND THE ACT APPROVED JUNE 28, 1940, ENTITLED "AN ACT TO EXPEDITE THE NATIONAL DEFENSE, AND FOR OTHER PURPOSES," IN ORDER TO EXTEND THE POWER TO ESTABLISH PRIORITIES AND ALLOCATE MATERIAL

HOUSE OF REPRESENTATIVES,
COMMITTEE ON NAVAL AFFAIRS,
Washington, D. C., Monday, April 28, 1941.

The committee met at 10:30 a. m., the Honorable Carl Vinson (chairman) presiding.

The CHAIRMAN. Let the committee come to order.

The purpose of this hearing is to consider H. R. 4534:

[H. R. 4534, 77th Cong., 1st sess.]

A BILL To amend the Act approved June 28, 1940, entitled "An Act to expedite the national defense, and for other purposes," in order to extend the power to establish priorities and allocate material

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act approved June 28, 1940 (Public, Numbered 671, Seventy-sixth Congress), as amended, is amended by inserting "(1)" after "Sec. 2. (a)" and by adding at the end of subsection (a) thereof the following:

"(2) Deliveries of material to which priority may be assigned pursuant to paragraph (1) shall include, in addition to deliveries of material under contracts or orders of the Army or Navy, deliveries of material under—

"(A) contracts or orders for the Government of any country whose defense the President deems vital to the defense of the United States under the terms of the Act of March 11, 1941, entitled 'An Act to promote the defense of the United States';

"(B) contracts or orders which the President shall deem necessary or appropriate to promote the defense of the United States; and

"(C) subcontracts or suborders which the President shall deem necessary or appropriate to the fulfillment of any contract or order as specified in this section.

Deliveries under any contract or order specified in this section may be assigned priority over deliveries under any other contract or order. Whenever the President is satisfied that the fulfillment of requirements for the defense of the United States will result in a shortage in the supply of any material for defense or for private account or for export, the President may allocate such material in such manner and to such extent as he shall deem necessary or appropriate in the public interest and to promote the national defense. The President shall be entitled to obtain such information from, require such reports by, and make such inspection of the premises of, any person, firm, or corporation as may be necessary, or appropriate, in his discretion, to the enforcement or administration of the provisions of this section. No person, firm, or corporation shall be held liable for damages or penalties for any default under any contract or order which shall result directly or indirectly from his compliance with any rule, regulation, or order issued under this section. The President may exercise any power, authority, or discretion conferred on him by this section, through such department, agency, or officer of the Government as he may direct and in conformity with any rules and regulations which he may prescribe."

We have with us this morning, members of the committee, officials from the Office of Production Management. We will first ask the Secretary of that organization to make whatever statement he cares to make.

STATEMENT OF HERBERT EMMERICH, SECRETARY, OFFICE OF PRODUCTION MANAGEMENT

Mr. EMMERICH. Mr. Chairman and members of the committee, the Office of Production Management is very eager to see this bill become law. The O. P. M. has come to the opinion that the powers granted under Public, 671, of the Seventy-sixth Congress require amplification and definition.

My statement is very brief, Mr. Chairman, and confined to the report. The Office of Production Management, as you know, is an agency created by Executive order of the President and consists of the Secretary of War; the Secretary of the Navy; William S. Knudsen, Director General; Sidney Hillman, Associate Director General; and, as secretary of the organization, I am authorized to say that these gentlemen have approved these measures and Mr. Knudsen and Mr. Hillman have specifically asked me to tell you that they strongly endorse it, and wish to record their opinion as to its urgency.

The CHAIRMAN. Thank you very much, Mr. Emmerich.

Members of the committee, it is with pleasure that I have the privilege of introducing to you Mr. Stettinius, who is the Director of the Priorities Division of the O. P. M.

Mr. Stettinius, the Naval Affairs Committee would be pleased to have you make your statement in your own way, without interruption, as to H. R. 4534. Tell us why you think it is necessary for this bill to be enacted into law.

STATEMENT OF EDWARD R. STETTINIUS, JR., DIRECTOR OF PRIORITIES, OFFICE OF PRODUCTION MANAGEMENT

Mr. STETTINIUS. Thank you, Mr. Chairman.

As Director of Priorities I am charged by the Office of Production Management and the President with the responsibility of establishing priorities in order to get prompt delivery of all material required in the defense program.

The only statutory authority for the establishment of priorities which now exists is contained in the short provision in section 2 (a) which reads as follows:

* * * deliveries of material under all orders placed pursuant to the authority of this section and all other naval contracts or orders and all Army contracts and orders shall, in the discretion of the President, take priority over all deliveries for private account or for export.

We have been advised by counsel that the foregoing statutory provision permits the granting of mandatory priorities only with respect to deliveries of the end products—airplanes, tanks, guns, ships, ammunitions, and so forth—ordered directly by the Army or Navy and the material, parts, and accessories which enter into the manufacture of such end products under contracts of the Army or Navy.

This leaves out all other of the important contracts and orders essential to the defense program, such as—

1. Contracts of the British Empire and other foreign governments under the lease-lend bill.

2. Contracts for the expansion of production of scarce essential materials and products.

3. Contracts of other agencies of the Government, such as the Coast Guard, Maritime Commission, Panama Canal, and so forth; and

4. Other contracts of indirect importance to defense.

Further, the foregoing statutory provision permits priority to be granted over contracts "for private account and for export" but does not permit the establishment of preferences over other government contracts.

Further, when shortages occur or are imminent as a result of the impact of the defense program, it is necessary to take steps to conserve the existing supply for defense purposes and to direct the distribution of such materials so that defense needs may be met, and where there is an insufficient surplus to meet all civilian needs, it is further necessary to direct such surpluses into those uses which are most important to maintain the economy of the country and to eliminate the uses which are least important.

While the foregoing statutory provision has been interpreted to give some authority in this direction, we are advised by counsel that we need further amplification and clarification of this authority.

The bill which Congressman Vinson has introduced to be the subject of this hearing involves principally a clarification of our authority to deal with the entire problem of priorities. Further, it is a problem of a legal nature which our attorneys are more qualified than I am to explain to you in detail.

I shall be delighted to answer any questions you may wish to put to me. I would like to say that I have my assistant, Mr. Blackwell Smith, here at the table; also our attorney, Mr. Geoffrey Smith, who are available, sir, to deal with any technicalities that may arise.

The CHAIRMAN. Thank you very much for your statement. For the record, let us have a little of the background of your organization. How was the O. P. M. created?

Mr. STETTINIUS. By Executive order, sir.

The CHAIRMAN. The President, on January 7, 1941, created the Office of Production Management.

Mr. STETTINIUS. That is correct.

The CHAIRMAN. And that is referred to as the O. P. M.?

Mr. STETTINIUS. That is right, sir.

The CHAIRMAN. In that Executive order the President provides for three Divisions—a Division of Production, a Division of Purchases, and a Division of Priorities. You have been designated by both the President and the O. P. M. board as the head of the Division of Priorities.

Mr. STETTINIUS. That is correct, sir.

The CHAIRMAN. We understand that the existence of the O. P. M. is by Executive order, and that will be found on page 59 of this pamphlet you have handed us. That is the origin of the O. P. M., the Executive order.

Mr. STETTINIUS. That is right.

The CHAIRMAN. And your authority has been derived from that order, and you have been designated the head of the Division of Priorities.

Mr. STETTINIUS. That is right, sir.

The CHAIRMAN. In connection with that you have been seeking to operate in accordance with the rules and regulations promulgated, growing out of the Executive order.

Mr. STETTINIUS. That is right, sir.

The CHAIRMAN. What, briefly, is the scope of your organization, the Division of Priorities? What do you do, and what is the objective you have in mind? We understand that under the act that we passed, which is known as the speed-up law, priority was given on certain things.

Mr. STETTINIUS. That is right.

The CHAIRMAN. That was what was running through our mind when we enacted that law.

Mr. STETTINIUS. Right.

The CHAIRMAN. That is your statutory authority for priorities?

Mr. STETTINIUS. That is right.

The CHAIRMAN. Then when your Division was created you sought to promulgate rules and regulations and also seeking to carry out, by voluntary agreement, what was put in the Executive order in connection with what is in this act?

Mr. STETTINIUS. That is right, sir.

The CHAIRMAN. Tell us about your set-up; how is it organized, and what is it?

Mr. STETTINIUS. I have a copy of the organization chart.

The CHAIRMAN. Let us put that in the record.

(The chart referred to appears on facing page.)

Mr. STETTINIUS. I first wish to direct your attention to the Priorities Board, which is an Advisory Board, with Mr. Knudsen and Mr. Hillman, sitting *ex officio*; Mr. Biggers, the head of the Production Division, Mr. Nelson, the head of the Purchasing Division of O. P. M., myself, acting as chairman; the Director of Priorities and Policy Matters; the Under Secretary of War, the Under Secretary of the Navy; the Assistant Chief of Staff, Captain Anderson of the Navy, who is here, and the representatives of the Defense Commission sit with this Advisory Board at its meetings. We also have general consultants on labor, prices, consumers, agriculture, so that all the various points of view may be represented in our deliberations.

We have divided our organization into two major classifications—the Assistant Director in Charge of Operations, headed by an impartial engineer, and Mr. Blackwell Smith, my assistant in policy. We have organized the load of the priority machinery into five major classifications—the minerals and metals group, the chemical groups, the commercial aircraft group, tools and equipment, and general products. At the head of each group we have appointed an impartial chairman, that is, a public figure not from the industry, who can act as umpire.

In the case of minerals and metals, it is Dr. E. M. Hopkins, president of Dartmouth College; the chemical groups, Dr. H. E. Howe; commercial aircraft group, Dr. A. D. Whiteside; tools and equipment, Dr. D. S. Kimball, dean of the engineering school of Cornell University.

ORGANIZATION DIAGRAM OF PRIORITIES DIVISION

OFFICE OF PRODUCTION MANAGEMENT

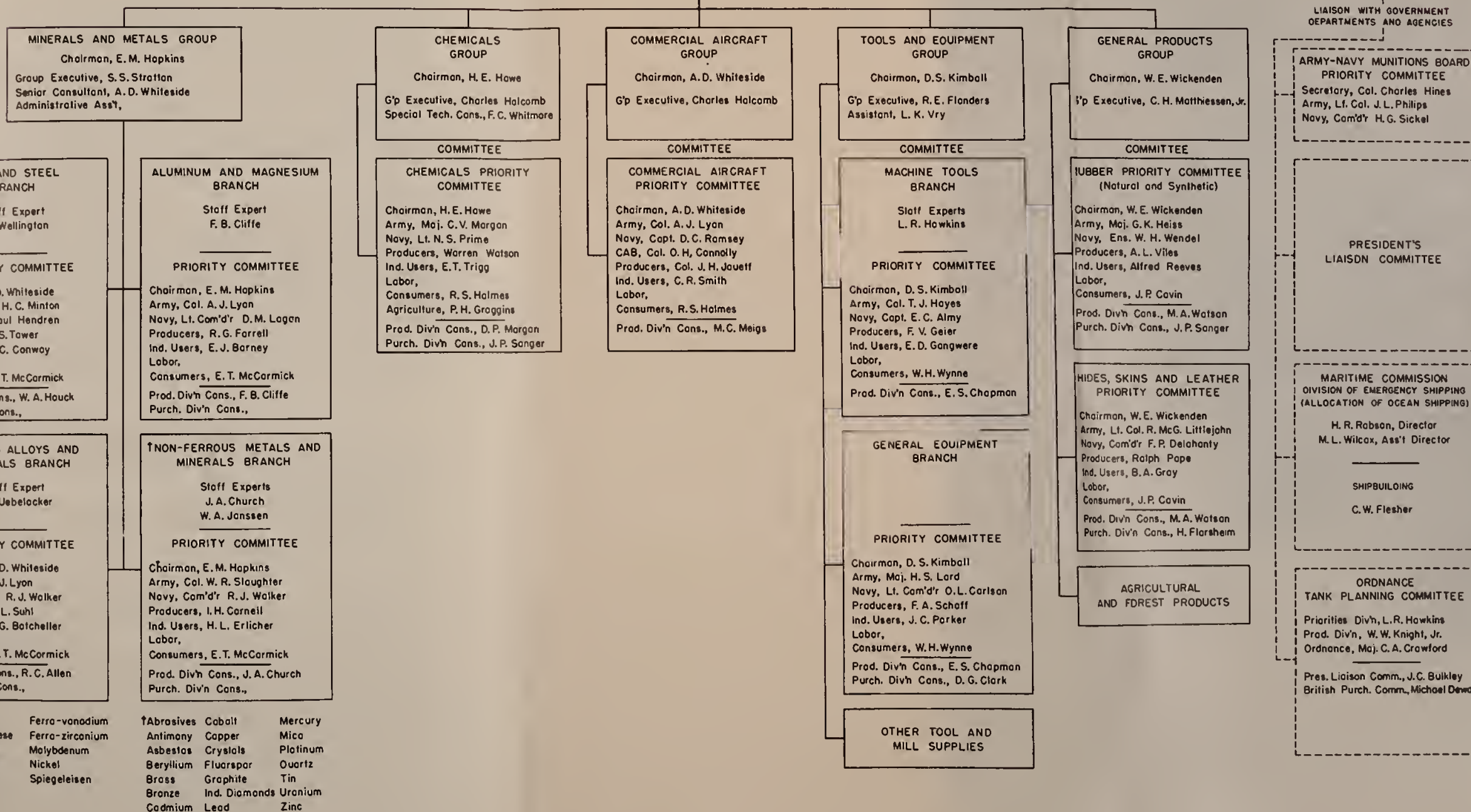
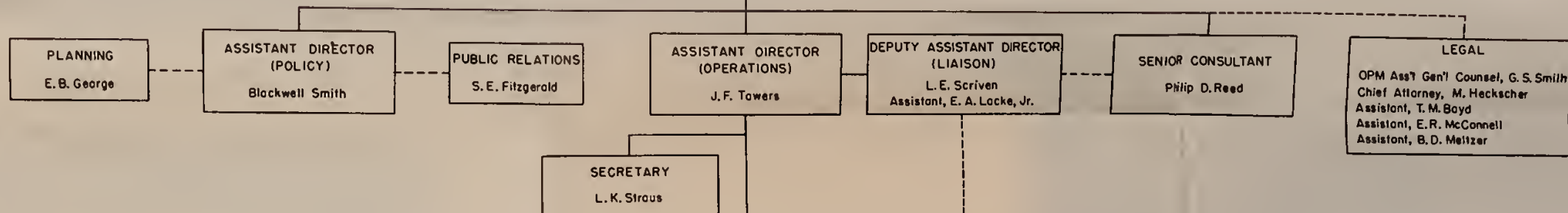
PRIORITIES BOARD
W. S. Knudsen, ex officio
Sidney Hillman, ex officio
E. R. Steffinius, Jr., Chairman
J. D. Biggers
D. M. Nelson

Advisory Representatives,
Under Secretary of War
Under Secretary of Navy
Army, Maj. Gen'l R. C. Moore
Navy, Capt. A. B. Anderson
Defense Commissioners

DIRECTOR OF PRIORITIES
E. R. Steffinius, Jr.

SPECIAL CONSULTANTS
Labor, Isador Lubin
Prices, J. E. Hamm
Consumers, B. W. Lewis
Agriculture, C. V. Gregory

EXECUTIVE ASSISTANT
R. J. Lynch
Hayden Raynor



Each of these impartial public figures have assistants with practical industry point of view. Each committee we deal with has its own priority committee, made up of a membership of five. We will take, for instance, the Iron and Steel Priority Committee. Dr. Hopkins is the impartial chairman; the acting chairman of that is Mr. Whiteside. There is on that committee an Army representative, a Navy representative, producers' representative of the industry, and an industrial consumers' representative, so that in whatever problem of priority we have to meet we have representation by the impartial chairman, the Army representative, Navy representative, industry representative, and the industrial consumers' representative; and in addition to that we have consultants who sit with them; a labor consultant, a consumers' consultant, agricultural consultant, who sit in the detail of each discussion on each individual committee.

That, briefly, I think, touches the high spot of the organization that we are using to approach the problem.

The CHAIRMAN. What bearing has the Navy or the War Department on the O. P. M. or your Division?

Mr. STETTINIUS. The Army and Navy Munitions Board has its own priority committee. Captain Anderson of the Navy, here present, is a member. We have issued to the Army and Navy Munitions Board Priority Committee what we term a "critical list," and that can be found, beginning on page 21 of the booklet before you, where we list the critical items that are moving in great volume that the Army or Navy can issue certificates for, with our endorsement.

The CHAIRMAN. Who makes that up? Who is the final judge as to what goes on that critical list, the Army, the Navy, or your organization?

Mr. STETTINIUS. We are, sir.

The CHAIRMAN. Or is it done together?

Mr. STETTINIUS. It is done jointly, but we are the final authority. In other words, no article can be added to the critical list without our approval.

The CHAIRMAN. Then if the military authorities think a certain article should go on the list for strategic and military reasons, the priority group of the O. P. M. would have a veto power over putting that article on the critical list?

Mr. STETTINIUS. That is right, sir.

The CHAIRMAN. Have there occurred instances where your Division has disapproved critical articles that the War or Navy Department desired to get on the list?

Mr. STETTINIUS. There have been times, Mr. Chairman, where the representatives of the Army and the Navy felt that a material was so scarce they felt it ought to be put on the critical list, but we have been able to prove to them that with the cooperation of the Production Division of O. P. M. it was merely a matter of expediting the order, and they have been able, through the Production Division of the O. P. M. getting into action, to get the material delivered, and we have been able to take care of most of the cases.

The CHAIRMAN. Then the Congress can understand that as between the Army, the Navy, through this Army and Navy Munitions group, and your group, you are working harmoniously, with no friction at all.

Mr. STETTINIUS. Completely, sir.

The CHAIRMAN. And both are working along the same line, with the same objective in view.

Mr. STETTINIUS. Correct, sir. I would prefer you to put that question to Captain Anderson, who is representing the Army-Navy munitions group. But I can tell you our relations with the Army and Navy are satisfactory and harmonious in every respect.

The CHAIRMAN. Now, the next step after this critical list. Instead of you issuing an order, the War Department or the Navy Department, when a contract is entered into, can attach one of these certificates of critical priority, and it doesn't have to go through you, because you have already O. K.'d it.

Mr. STETTINIUS. That is right.

The CHAIRMAN. Then what is the article where you step in and issue a certificate of priority? We will forget all about the Army and Navy critical list now.

Mr. STETTINIUS. Yes, sir. We get into such items as nickel, where there is not enough nickel imported from Canada (approximately 14,500,000 pounds a month) to meet the entire defense load and the entire civilian load. Therefore nickel has to be allocated, and we have issued mandatory priorities on nickel and are responsible for the allocation of the production of nickel that is brought into this country from Canada, and for distribution to the defense industries that require it most, and require it most urgently. Then, if there is anything left over it is divided properly, with given standards, among the civilian uses.

The CHAIRMAN. Then when there is a scarcity of an article that is needed in the national-defense program and in the commercial program as well, you allocate or give priority to that which you deem should have the priority use of it; is that correct?

Mr. STETTINIUS. That is correct, sir.

The CHAIRMAN. Does the Army and Navy consult with you in determining whether or not an article is of such vital importance to the defense that it should be classified for priority, or is that done entirely by civilians?

Mr. STETTINIUS. That is done, as I indicated, from our organization chart. On nickel we have an Army representative, sitting with us constantly on that allocation, and a Navy representative.

The CHAIRMAN. Your critical list is being changed constantly, all the time?

Mr. STETTINIUS. That is right.

The CHAIRMAN. In running over this critical list, I note it was revised on March 15. This organization was set up on January 7, and this is when the first critical list was made.

Mr. STETTINIUS. No; there had been a critical list the Army and Navy Munitions Board had been operating on themselves before we took hold.

The CHAIRMAN. I was just wondering, when we all recognize that approximately 80 percent of our aluminum is imported from the South Sea Islands of the Pacific, why it is that aluminum was left off the critical list until March 15.

Mr. STETTINIUS. I think you mean tin from the Dutch East Indies.

The CHAIRMAN. Well, bauxite.

Mr. STETTINIUS. Dutch Guiana.

The CHAIRMAN. Eighty percent of it is imported.

Mr. STETTINIUS. That is right, from Dutch and British Guiana.

The CHAIRMAN. Why was aluminum or bauxite, left off until March 15? Was it the opinion of the military authorities there was enough in this country to go around, or was it your opinion there was enough to go around without putting it on the priorities list?

Mr. STETTINIUS. Are you speaking of the finished aluminum, now, or the bauxite?

The CHAIRMAN. Of course, you have to make your finished aluminum out of the bauxite, do you not?

Mr. STETTINIUS. Yes, sir.

The CHAIRMAN. All right.

Mr. STETTINIUS. That was the first time we dealt with the critical list. Aluminum appeared on the critical list the first time we dealt with it.

The CHAIRMAN. Just as soon as you dealt with the critical list, you put aluminum on it?

Mr. STETTINIUS. That is right; sir.

The CHAIRMAN. We read a great deal in the paper about the aluminum situation. What is the situation with reference to the aluminum phase of the program?

Mr. STETTINIUS. The aluminum industry, sir, is expanding just as fast as it is humanly possible to expand, to increase its production to meet the full load. I have a chart here showing the production. The production of aluminum is going up very rapidly. Counsel is asking whether or not we should discuss this in executive session.

The CHAIRMAN. If there is anything that should not be stated publicly, do not hesitate to say so. If you do not think the aluminum situation should be gone into publicly, just do not go into it.

Mr. STETTINIUS. I am delighted to go into it. It was a question of whether or not there were any figures that should be kept from the press. The estimated production for 1941, now, is a confidential figure.

The CHAIRMAN. We won't put it in; just forget about aluminum. Let us get away from that subject. Now, up to date, your priorities have been given and have been acquiesced in even when on a voluntary basis by the industry?

Mr. STETTINIUS. In some instances.

The CHAIRMAN. Are you having any trouble in getting compliance with your certificates?

Mr. STETTINIUS. No, sir; so far as we can tell, we are getting complete compliance.

The CHAIRMAN. Then what is the necessity for legislation? If it can all be done by Executive order, why do you need legislation?

Mr. STETTINIUS. Mr. Chairman, the orders covering material other than for the Army and Navy are not binding. The companies are subject to all sorts of suits, and we feel that we must protect both the Government and the suppliers by having the relationship a completely formal one, and one that is theoretically legal.

Mr. MAAS. Is the only legal authority you have today the legislation to which you refer in this bill?

Mr. STETTINIUS. That is the only legal authority for priority.

Mr. BATES. Well, you have the Executive order, I understand, which gives you the right to issue priorities.

Mr. MAAS. That is not a law; that is not binding on anybody.

The CHAIRMAN. That is why we are here. The Executive order, while it is all right if everyone wants to follow it out—

Mr. STETTINIUS. Excuse me, sir. I should remind you that section 9 of the Selective Service Act is a background club that we have.

The CHAIRMAN. That is what is known in the House as the Smith amendment. That merely lets you go ahead and take them over.

Mr. MAAS. But reasons for taking them over are prescribed by the law itself.

The CHAIRMAN. And you can take them over when a manufacturer refuses to produce.

Mr. STETTINIUS. That is correct, sir.

The CHAIRMAN. For instance, you could not have taken over the Allis-Chalmers plant, which was bogged down by a strike, because the plant was willing to work. It is only when they refuse, so we have to have legislation. Are you proceeding on the theory suggested by Secretary Knox the other day, that it is better to have statutes, where possible, than to have Executive orders; and for that reason you think a statute dealing with this subject will help the situation?

Mr. STETTINIUS. That is correct, sir; and I should also like to remind you that the informality with which we have dealt with the lend-lease program, fitting the lend-lease orders into the Army and Navy orders, is also involved. At the present time we have no statutory authority for mandatory priorities in that area.

The CHAIRMAN. In that connection the War Department and the Navy will determine as to whether this or that product will be given priority for other countries or our country.

Mr. STETTINIUS. That is correct.

The CHAIRMAN. A determination that you make jointly with the Board from the War Department, or the Navy Department?

Mr. STETTINIUS. No, sir; that is determined by the Army and the Navy, and that is handed to us as a matter of policy for execution.

The CHAIRMAN. Now, Mr. Stettinius, tell us, where you have a concern that has both commercial orders and national-defense orders, and who is a prime contractor, who needs some material, how do you determine whether he shall get priority? Who works that out?

Mr. STETTINIUS. We work that out, sir.

The CHAIRMAN. And it all depends upon each contract?

Mr. STETTINIUS. It all depends upon each contract and the importance of that contract in the defense effort, and the percentage of his work that is defense and the percentage of it that is civilian. We have to work each of these cases out on almost an individual basis.

The CHAIRMAN. For instance, if a concern has a contract to supply a water main for a cantonment or a munitions plant, it may so happen that the water pipes and water mains may be given a higher priority than something that may be used on the firing line; isn't that correct?

Mr. STETTINIUS. It may be, sir; it may well be.

The CHAIRMAN. That material is necessary in order to get that cantonment or munitions plant constructed.

Mr. STETTINIUS. That is correct.

The CHAIRMAN. Do you have boards all over the country to pass on these things, or is it all done from Washington?

Mr. STETTINIUS. It is all done from here. We are studying the broad question of field activity and are ready to move as soon as it can be justified.

The CHAIRMAN. Is this happening; that a contractor gets an order, knowing what materials he needs to complete that order. Does he come down to you to get a priority, or what does he do?

Mr. STETTINIUS. The normal procedure is for him to receive that priority certificate, if he needs one, from the contracting officer in the field; the Army or Navy officer in San Francisco can issue a certificate for alloy steel, or whatever it may be, on the spot.

The CHAIRMAN. That is only on the critical list.

Mr. STETTINIUS. On the critical list, and, of course, only on Army or Navy contracts.

The CHAIRMAN. When he gets away from that, he has to come to you?

Mr. STETTINIUS. He comes to us, and we have many simplified steps that have saved an immense amount of paper work and confusion. I would like to mention, briefly, one, what we term our limited blanket priority, where we give a blanket priority to a project, a piece of electrical equipment, or an overhead crane. We will give one piece of paper making it possible for that crane manufacturer to buy all the material, and all the ropes and everything that goes into that one crane, and he builds it. That makes it very simple for that man to operate, and very simple for us to operate. Of course, that is being extended constantly, that practice.

The CHAIRMAN. Are there any questions by the members of the committee?

Mr. MAAS. Yes; I would like to ask Mr. Stettinius what does the legal authority of the O. P. M. itself consist of, other than the Executive order?

Mr. STETTINIUS. The war powers under the National Defense Act of 1916.

Mr. MAAS. And those are operative under a state of emergency as declared by the President?

Mr. STETTINIUS. That is right; yes, sir.

Mr. MAAS. Independent of the state of emergency declared by the Congress.

Mr. STETTINIUS. That is correct; yes, sir.

Mr. MAAS. The Priorities Board, and you, as Director, operate under the authority of that Executive order; is that correct?

Mr. STETTINIUS. That is right; sir.

Mr. MAAS. But the authority vested is very limited, is it not?

Mr. STETTINIUS. That is correct; sir.

Mr. MAAS. Does this legislation that is before us now, H. R. 4534, involve any new principles of priority, or are they merely a legal clarification of the existing law?

Mr. STETTINIUS. Mainly a legal clarification of the existing law, and they do not extend the powers under which we are already operating.

Mr. MAAS. I am not questioning even an extension, if it is necessary. I just want to get in my mind what is meant by this legislation. Now,

it does seem to me that you do something in here, however, which I am in agreement with. You give the President direct authority on these matters, whereas most of them have been operative through the constituted agencies of the War and Navy Departments heretofore.

Mr. STETTINIUS. Yes, sir.

Mr. MAAS. Many of these functions are now by law given to the Priorities Board, or the O. P. M., through the President, by this legislation, is that correct?

Mr. STETTINIUS. That is correct.

Mr. MAAS. Many Members of Congress, Mr. Director, have been disturbed by the fact that the O. P. M. had no statutory authority in its constitution. I think most of the members of this committee are impressed with the statement made by the Secretary of the Navy recently, that wherever possible it was preferable to rule by law rather than by Executive decree. Can you suggest to this committee any legislation that might be desirable to clothe the O. P. M. and your office with statutory authority beyond that proposed in this bill?

Mr. STETTINIUS. Really, sir, that is out of my field. I have not studied it, and I don't believe that is a thing I can make a contribution on at this time, sir.

Mr. MAAS. Well, up to the present time, most of that work with the Army and the Navy has had to be on a voluntary basis, has it not, other than as you were backed up by the Secretary of War and the Secretary of the Navy in dealing with the respective agencies. They had critical list for their needs. They could assert priorities which you didn't have.

Mr. STETTINIUS. No. The legal foundation for the priorities procedure is pretty definite in the June 28 act of Congress, this section 2 (a) to which we referred.

Mr. MAAS. Did that legislation give the authority to the President or to the Navy Department?

Mr. STETTINIUS. To the President, and the President, in turn, delegated it to us.

Mr. MAAS. The O. P. M. itself does not negotiate contracts, does it?

Mr. STETTINIUS. No, sir.

Mr. MAAS. They have no legal authority to enter into a contract.

Mr. STETTINIUS. No, sir; the Army and Navy take that action.

Mr. MAAS. Can you direct the Army and Navy in making a contract?

Mr. STETTINIUS. The President, my counsel tells me, has given the O. P. M. the power to approve, which amounts to a veto.

Mr. MAAS. But you cannot initiate anything at all.

Mr. STETTINIUS. No, sir.

Mr. MAAS. I am not quite satisfied with the aluminum situation, and I am not going to go into anything which would be of a military or confidential nature. I think a great deal of the secrecy around this defense business is merely, or has been up to the present time, to keep the American people guessing. I don't believe the espionage agents are denied any information. I think they have it as soon as you do or we do. But if anything goes beyond that, please disregard it.

Mr. STETTINIUS. Yes, sir.

Mr. MAAS. I am disturbed, and I know a great many other members of Congress are disturbed, at the lateness with which aluminum was dealt. In January of this year we had representatives of the Army and Navy and industry before us, and I persistently questioned them about the threatened shortage of aluminum. I had made a survey of a good deal of the aircraft industry in December, and I was impressed at every factory I went to with the threatened shortage of aluminum. But we were assured in this committee that there was nothing to worry about, we had plenty of aluminum to last indefinitely, or until the new supply was to be created. We were told the aluminum manufacturers had two or three years' supply, it was merely a matter of diverting that for awhile, and we would have plenty of aluminum by the time we needed it. Now we are apparently faced with an acute shortage of aluminum. Can you give us any information as to why there was such a delay in dealing with this problem?

Mr. STETTINIUS. I think, sir, that the aluminum manufacturers have done everything they possibly could to increase their production. This aluminum subject is a very, very important one to me, because of my activity on the Defense Commission. If you would like a complete and exhaustive statement on the aluminum subject, Mr. Chairman, I shall be glad to prepare it and give it to the record.

Mr. MAAS. May we have that for the record, Mr. Chairman?

The CHAIRMAN. All right; that may be placed in the record. (The statement is as follows:)

STATEMENT OF EDWARD R. STETTINIUS, JR., TO THE HOUSE NAVAL AFFAIRS COMMITTEE ON STEPS TAKEN TO PROVIDE ADDITIONAL ALUMINUM FOR THE NATIONAL DEFENSE PROGRAM

With the organization of the Advisory Commission to the Council of National Defense in June 1940, one of the first problems considered was the adequacy of the supply of aluminum.

Estimates were requested from the Army, Navy, and Air Corps, but it soon appeared that adequate information concerning the fabricated aluminum needed for their program was not available to them. The Advisory Commission, therefore, secured estimates from the aircraft companies of the production schedules for finished airplanes, and asked the Aluminum Co. of America to estimate the weight of aluminum of all fabricated types required for each plane, together with the date that the metal would be required for consumption, with adjustments to allow time for fabrication and assembly into the finished plane.

However, airplanes are only one of the many items in the defense program for which aluminum is needed. Even less information was available concerning the quantities needed for the hundreds of other uses to which the metal is placed.

Concurrent with this work, our Aluminum Section prepared an estimate of 1940 civilian consumption of aluminum and used this as a basis for computing estimates of future civilian consumption.

From the scattered information that we were able to assemble in those early days, it immediately became evident that additional productive facilities would be required. Early in June we held a series of conferences with representatives of the Aluminum Co., and the whole question was gone over at great length. Out of these first meetings our policy of supporting the Tennessee Valley Authority expansion program in order to provide power for increased production of aluminum developed. A program of rapid expansion of facilities was worked out, and the Aluminum Co. of America agreed to supply their own funds.

In addition to the expansion plans that were worked out by the Aluminum Co. of America at the instigation of the Defense Commission, early in August

the Reconstruction Finance Corporation announced that they were making a loan of \$15,800,000 to the Reynolds Metals Co. for the construction of an aluminum plant at Lister, Ala. This loan was later extended to \$20,000,000.

The table below gives the new units that have come and were expected in November 1940 to come into production:

	Power source	Pounds per year
Capacity, July 1940.....		435,000,000
Scheduled beginning—		
October 1940, Alcoa plant.....	Company.....	30,000,000
December 1940, Vancouver plant.....	Bonneville.....	30,000,000
January 1941, Alcoa plant.....	Company.....	30,000,000
April 1941, Badin plant.....	Duke.....	14,000,000
April-June 1941, Vancouver plant.....	Bonneville.....	90,000,000
May-June 1941, Massena plant.....	Ontario Hydro Electric.....	46,000,000
July 1941, Reynolds.....	Tennessee Valley Authority.....	36,000,000
January 1942, Alcoa plant.....	Company.....	30,000,000
Do.....	Tennessee Valley Authority.....	30,000,000
July 1942, Alcoa plant.....	do.....	30,000,000
January-July 1942, Reynolds.....	Bonneville.....	54,000,000
Capacity all plants, July 1942.....		1 855,000,000

¹ Not including any estimate of secondary aluminum (scrap), nor further increase in capacity now under consideration.

To date the Aluminum Co. of America is a month ahead of its expansion program. The output for the month of May will be as much as was originally scheduled for June. The first metal to be produced by the Reynolds Metals Co. is expected during May, compared with its scheduled beginning in July.

During the months of December and January we investigated many complaints of shortages in aluminum fabrications for the aircraft program. The results of our investigations indicated that much of the difficulty came from the rapid expansion in the aircraft companies' own plants with a consequent lack of coordination between the engineering and purchasing departments. By cooperating with the companies' management we were able to correct many of the situations that arose.

On November 29 we announced that "it is * * * indicated that there will be sufficient supply of ingot aluminum to take care of military requirements as now estimated, plus present civilian requirements, with enough surplus to permit a substantial increase in civilian requirements or military requirements if needed."

As the defense program progressed and new information was obtained on military needs, revisions were made in the estimated aluminum requirements.

Notwithstanding the efforts to estimate future requirements that have been described, our estimates proved to be too low. In the 5 months succeeding the November statement, military requirements have increased more rapidly than anticipated, and they have absorbed not only the surplus, but also most of the civilian supply.

Production of aluminum in its various fabricated forms is to date ahead of schedule. However, the increase has not kept pace with the increase in demands of the military program. This has been due to a number of factors.

First: The rapid expansion of requirements of the Army and Navy and essential defense industry has greatly exceeded the estimates that were originally obtained. This is especially true in the case of the aircraft program, which now calls for a much higher average amount of aluminum per plane than that of the original program. There has also been a speeding up of the delivery schedules for planes.

Second: The necessity to supply metal, not only for the aircraft program and other defense requirements, but also to establish greatly increased working inventories which are required by the thousands of companies that are working directly and indirectly on defense contracts. This process of filling up of industrial "pipe lines" is analogous to the tooling-up period that has placed such a strain on the machine-tool market. Just as long as the present high rate of increase in production of aluminum items continues, fabricating plants will have to continue to fill up with goods in process, and the amount of aluminum available for consumption will be diminished by that amount.

This factor has been responsible for the absorption of considerable amounts of aluminum.

Third. Large withdrawals of aluminum scrap from the secondary market. In our estimates of the probable supply we counted upon a normally quick return of industrial or "new" scrap for refabrication. We believe the failure of this scrap to return in an orderly fashion has been due in large degree to hoarding.

Fourth. Temporary reduction of imports of aluminum from Canada. This was announced in January, but since then the Aluminum Company of Canada has agreed to resume its aluminum shipments.

Fifth. Many companies considerably increased their inventories as they foresaw the irregularity of future supplies.

This rapid change in the situation in the aluminum market made it evident early this year that it would be necessary to take emergency steps to protect the supply of aluminum for defense uses. The first of these steps was taken early in February to conserve the supply of aluminum scrap. At the same time industrial users of aluminum in nondefense fields were urged to seek substitutes.

In March aluminum was placed under mandatory priority regulation. This was the first action of this type taken by the Office of Production Management. Producers were required to give preference to defense orders over all civilian uses and a schedule was issued that would serve to reduce civilian consumption for the less essential and more easily replaced uses.

There have been numerous complaints to the effect that shortages of aluminum have delayed the defense program. Most of these instances have related to shortages of some of the forms into which aluminum is fabricated. Thus, many airplane parts require aluminum forgings, but the forgings in turn cannot be produced until dies are manufactured. These dies in turn frequently require the work of skilled craftsmen over a period of many weeks after the designs are complete. The dies in turn are of no use except as there are forging hammers or presses capable of holding them. Aluminum forging has been done on only a small scale for civilian purposes and it has been necessary to develop additional forging hammers and trained personnel. A somewhat similar situation has developed with extrusions for which also dies must be prepared. Some other aluminum shortages have been similarly due to the lack of special fabricating facilities.

Major expansion of fabricating facilities was started in the summer of 1940, and these facilities are in the process of coming into production. Speed in their construction was obtained by granting a high priority rating to the equipment order.

The leading aircraft companies now have inventories of raw materials, awaiting progressing that run from four weeks' to four months' supply. Their fabricating departments have this material available at any time it is needed. These supplies are chiefly aluminum sheets and similar standard parts which can be produced without awaiting the completion of detailed specifications, or special dies or tools.

For the month of May 1941 production of primary metal will be approximately 52,000,000 pounds. Importations of metal from Canada will supplement this so that the available supply of primary metal will be approximately 55,000,000 pounds. For that month the defense demand on orders carrying a priority classification of A-1 to A-10 inclusive will require the shipment of 52,000,000 pounds. Consequently, there will be available for civilian uses only 3,000,000 pounds of primary metal as contrasted with a normal civilian consumption of nearly 10 times that amount. However, part of the normal civilian demand has disappeared as plants have changed over to defense production. The reduction in the material available for civilian uses is causing considerable hardship in plants that have not converted their facilities to defense production.

To fulfill the commitments implied by the lend-lease bill, large additional quantities of aluminum will be required. The extent of this need is now being surveyed and facilities for increasing production are being planned.

Mr. STETTINIUS. I can add, however, that the program has mounted so fast that all the estimates and all the calculations by almost everyone connected with the immediate problem were inadequate.

Mr. MAAS. Is there very much in the recovery of aluminum, Mr. Stettinius?

Mr. STETTINIUS. Scrap?

Mr. MAAS. Yes.

Mr. STETTINIUS. Yes, sir; quite a large amount, and there is much of the scrap being withheld from the market now, which is causing a great deal of this difficulty, the immediate shortage, for these months we are in now.

Mr. MAAS. Where is that being accumulated?

Mr. STETTINIUS. Many of the companies have done it. We are taking steps now to free that and have it flow back more quickly.

Mr. MAAS. Just one more question. You mentioned some difficulties under the lease-lend bill. What are those difficulties? We thought in the lease-lend bill itself we had clothed the President with sufficient authority to deal with every phase of the subject. What conflict do you run into in administering that, in connection with the Army and Navy production, or civilian production?

Mr. STETTINIUS. A lot of it, of course, is other than Army or Navy contracts. It is a legal technicality, that we have not the priority power to affect that demand within the existing procedure.

Mr. MAAS. Where does the conflict come in? You wouldn't need additional legal authority, Mr. Director, unless there was some opposition to the certificates you are issuing or the orders you are issuing. If they are being followed voluntarily, you wouldn't need additional authority. I just want to know what the conflict is.

Mr. STETTINIUS. Could I refer that to counsel, Mr. Chairman?

The CHAIRMAN. Yes.

Mr. GEOFFREY SMITH. The answer, sir, is this: First you have no binding effect on the orders that you issue as to contracts other than the Army and the Navy. Insofar as you do issue those orders, the contractor who complies with them is putting his head in a noose, because he has absolutely no legal protection against his other customers. He has got to, from patriotic motives, comply with your order, but yet, insofar as he cannot take the time to run around and get consents, which sometimes he cannot get, he is opening himself to damage suits from every single private customer he has set aside by that priority order.

Mr. MAAS. This section absolves him from liability in that direction, does it?

Mr. STETTINIUS. That is right, sir.

Mr. MAAS. Is there any conflict in the matter of policy between the Army and the Navy, as between their own production and lease-lend production?

Mr. STETTINIUS. No, sir; that, however, is a matter I am not entirely familiar with in the councils of the Army and the Navy, but I think it can be fairly stated that there is no conflict. It is always smoothed out by them before it reaches us.

Mr. MAAS. On the question of priorities with which you directly deal, is there a centralization of the purchasing now for the export trade; that is, defense export to the democracies, and our own production? Is that all actually centralized through one purchasing agency in our Government, as we were told was the principle in the lend-lease bill?

Mr. STETTINIUS. It is coordinated. I think that is a better word than centralized. It is coordinated through the Director of Purchases of O. P. M.

Mr. MAAS. What check do you have on the British commission's orders, for instance? Do they clear through O. P. M.?

Mr. STETTINIUS. Yes, sir, they do; through Mr. Donald Nelson.

Mr. MAAS. Does he have any power, or does he need any power there, as he does over our own production?

Mr. STETTINIUS. If you will excuse me, sir, I am a little mixed on that point. Of course, you all know that Harry Hopkins has the lend-lease authority, but that is coordinated, as I have understood it, by Mr. Donald Nelson, the Director of Purchases of O. P. M.

Mr. MAAS. But the British commission is still placing direct orders. Now, when the question of priority, we will say, for an aluminum order for planes to be produced under British orders, and American orders for the Army and Navy comes up, how does that come to you?

Mr. STETTINIUS. It comes to us through the Army and Navy, sir.

Mr. MAAS. Are the British commission orders cleared through the Army and Navy?

Mr. STETTINIUS. Yes, sir.

Mr. MAAS. But the United States Government is not yet making the purchases for the British or any other democracy, is it?

Mr. STETTINIUS. That is correct, sir.

Mr. MAAS. Is it your understanding that it ultimately will flow through one channel and the Government per se as such will place the orders for the British as well as for the Army and the Navy?

Mr. STETTINIUS. That is my understanding.

Mr. MAAS. That is not as yet the set-up?

Mr. STETTINIUS. I am not familiar with the details of that.

Mr. MAAS. But you do have some control over the priorities of materials that go into the production, under the lease-lend sales, in our own production, domestic and national defense?

Mr. STETTINIUS. We have it, because we take it. We don't have it now. That is the reason we are asking for it. That is the specific thing we are after.

Mr. MAAS. That is what I want to get. Does this bill give you authority—

Mr. STETTINIUS. Yes, sir.

Mr. MAAS. Over British orders as well as American?

Mr. STETTINIUS. It does, sir.

Mr. MAAS. It seems to me it is a very desirable thing.

Mr. STETTINIUS. That is the important thing we are asking for.

Mr. EMMERICH. Mr. Chairman, may I just attempt to review that procedure? This bill is now getting ready for the new procedure which Congressman Maas referred to. When the lend-lease set-up, which Mr. Harry Hopkins is administering, clears a vital requirement for British account or the account of any other foreign nation which is entitled to it, those orders will presumably be placed, so far as we understand, through Army or Navy contracting officers, in which case they will come to the O. P. M. in the same manner that our domestic purchases for defense needs will come. When they are so placed, we want to be quite sure that our authority, whether it is for Army or Navy or Maritime Commission, or any other agency of the Government, or for direct British account, may be subject to priorities in the same manner that our Army and Navy orders for American account are.

The CHAIRMAN. Then we can understand, when this bill becomes law, one of the objectives of it is to pass everything, both for lease-lend and everything else, through this one set-up?

Mr. STETTINIUS. Yes, sir.

The CHAIRMAN. One more question, Mr. Stettinius: Why don't you take jurisdiction over this? What is your set-up doing with reference to trying to get business in the national-defense cycle and outside of the commercial cycle? You see, what is going on in this country is this: All of these concerns are now just viewing these additional defense contracts as new business, and they are at the same time trying to carry on their old business. Why doesn't it fall within your jurisdiction or priorities, to see that actual priority is given in the national-defense cycle instead of in the commercial schedule?

Mr. STETTINIUS. It is, sir.

The CHAIRMAN. For instance, the other day—this emergency has been going on since September 8, 1939, and just the other day, from the newspaper—and after all, all we get is what we read in the newspapers, and I am very grateful to you for coming here and telling us something about your set-up, because this is the first time any of the 21 members of this committee had any idea of the work you were doing. We can do pretty well, as far as the law is concerned, but when these Executive orders come out as fast as the days go around, we can't keep up with them. It just recently happened, since the emergency started on September 8, we read in the papers that somebody down there issued an order that there weren't going to be quite as many automobiles. Why can we not have a curtailment of the luxury things that we are all used to be brought about, by putting them on the deferred list, and putting the national-defense materials on the preferred list, and in that way get this program across? We could do better if we had all the time we wanted, but we haven't got it. Why doesn't all that come within your authority?

Mr. STETTINIUS. It does, sir.

The CHAIRMAN. To say to industry, "You have got to quit," as I have said here time and again, making pots and pans out of aluminum, and out of these other things and you have to concentrate on this national-defense program." Why don't you hold the whip hand over that whole situation?

Mr. STETTINIUS. That is exactly what we have done; and that is exactly the direction in which we are working now, to take care of defense requirements first, and if there are not sufficient materials to go around, we cut into civilian life.

The CHAIRMAN. Why can you not let business know it has got to concentrate on the defense of this country? Why can't you let business know it has got to concentrate absolutely? That you are going to control the materials?

Mr. STETTINIUS. That is being done.

The CHAIRMAN. You are going to control priorities. It seems to me you can have a powerful effect in causing industry in this country to get right down to business on this national-defense program and turn out this stuff that is absolutely essential.

Mr. STETTINIUS. That is really, sir, the primary purpose of asking for this clarification.

The CHAIRMAN. Then this bill will help?

Mr. STETTINIUS. It will help tremendously.

The CHAIRMAN. All right, then, if we pass this bill we ought to read in the paper where they are speeding up and turning out our national-defense products faster, and these nonessentials that we all enjoy have been somewhat curtailed and everybody is concentrating on defense.

Mr. STETTINIUS. Right, sir.

The CHAIRMAN. Because if we do not, we may have trouble on our hands.

Mr. STETTINIUS. You may be sure of that, sir.

Mr. SUTPHIN. I notice that lumber is not on the priority list here.

Mr. STETTINIUS. On the Army and Navy critical list? The trouble was the time of scheduling the purchase of lumber items, and actually the Army and Navy Munitions Board has not found there was an acute shortage of lumber that necessitated it being put on the critical list.

Mr. SUTPHIN. But I am informed that the price has materially increased on lumber.

The CHAIRMAN. They have nothing to do with price.

Mr. STETTINIUS. That is not within our jurisdiction.

The CHAIRMAN. Of course, the price of lumber is jumping up every day. It has gone from \$18 a thousand up to around \$60.

Mr. SUTPHIN. I notice on your list here you have ships. Does that mean small ships, or ships of every kind?

Mr. STETTINIUS. All kinds, ships of every classification.

Mr. SUTPHIN. You have priority over the letting of contracts for the construction and purchase of small ships?

Mr. STETTINIUS. No, sir; only priority over the movement of the materials. The actual contract for the ship is in the hands—

Mr. SUTPHIN. The O. P. M. doesn't have anything to do with the purchase of small ships, then?

The CHAIRMAN. That is in the Navy Department and the Maritime Commission.

Mr. SUTPHIN. I noticed the other day the Secretary of the Navy was quoted in the papers as saying he was placing an order for the construction of small craft in Canada. It seems to me that the small shipyards in this country should be given first preference. I would like to see that carried out. I know people who have been going down to the navy yard and they have been getting the run-around.

The CHAIRMAN. This organization hasn't anything to do with that.

Mr. SUTPHIN. That is what I wanted to find out, whether it goes through the O. P. M.; and the O. P. M. says it does not.

Mr. STETTINIUS. It doesn't go through me. I am responsible for the flow of materials to make the ship.

The CHAIRMAN. He is responsible for the structural steel and the armor plate and all that class of material.

Mr. STETTINIUS. That is right, sir.

Mr. BATES. I understand there has been a little misunderstanding here of the real purpose of this bill. It is to extend protection to those industries that are already under contract to supply materials and supplies to some one other than a defense contractor, and where the priorities steps in, under your authority. Then you protect that contractor from possible suits on the part of the other private contractor with whom he already had a contract to deliver certain goods.

Mr. STETTINIUS. That is one point, sir.

Mr. BATES. Then the other point, as I read the original authority here vested in the President, is to extend this to those industries who are under orders for the delivery of material to any countries whose defense the President deems vital to the defense of the United States. Are those the only two changes in the law; one the protection of the contractor who originally was under contract to supply a private contractor with goods?

Mr. STETTINIUS. May I have counsel reply to that?

The CHAIRMAN. May I say we are going to have the counsel for the Priorities Committee testify in a few minutes.

Mr. BATES. Well, while the question is alive, it might be well at this point to let him answer it.

Mr. STETTINIUS. I think I can answer Mr. Bates this way. It is true that we need protection for the fellow who has to comply with our orders; we also need the authority to issue a mandatory order on him so that he can have that protection. It takes both steps, you see.

Mr. BATES. You can issue a mandatory order now, under the President's decree, can you not?

Mr. STETTINIUS. No, sir; only within the limits of this statute, namely, for Army and Navy contracts on the materials that flow into those contracts; not for contracts under the lend-lease bill; not for contracts for the expansion of facilities to produce scarce materials, and not for any other important defense contract unless it is specifically let by the Army or the Navy, or is a subcontract that flows into that contract.

Mr. BATES. What the order says, if I read it correctly; in setting up the authority to the President, he is given authority in section 2 (a), which declares under certain circumstances defense orders shall take priority over all deliveries for private account or for export. The authority of the President is now vested in the Priorities Division of the O. P. M. and the Director of Priorities. Doesn't that give your organization the same authority? It gives full authority to the President.

Mr. SMITH. Are you discussing the new bill?

Mr. BATES. The authority of the President. That goes back to the authority vested in the President under the Defense Act.

Mr. SMITH. Yes; but the only direct authority vested in the President is under section 2 (a).

Mr. BATES. That is right.

Mr. SMITH. And that relates to Army and Navy contracts, and the things that flow into them. So that in the rest of the field, while we are going on, and have had to go on, we are going on a voluntary basis. For instance, we have four types of certificates that we issue granting preference rating to contractors. One is the mandatory form that is used by the Army and Navy for their contracts. There are three other forms; one for other Government contracts. Entirely voluntary, and it says so on the back of the certificate.

Mr. BATES. And this bill changes that?

Mr. SMITH. It changes that.

Mr. BATES. Go ahead; what is the second?

Mr. SMITH. The second one is for foreign-government contracts. Those are on a voluntary basis, and the certificate so states. The third kind is for civilian contracts, which require priority because

of some vital need. For instance, that water supply the chairman mentioned. Those are on a voluntary basis, and the certificate so states. Now, in order to give protection to anybody who applies for one of our rating certificates or orders, we have got, first, to have statutory authority, so that our order is mandatory, and then if he complies with that we feel that he also ought to have the additional express protection of the law, stating that he is protected, because there is some doubt in some areas of the law as to this doctrine of impossibility of performance. I can go into that, if you want; it is a rather technical situation. It can be stated briefly as follows: Any man is protected in law against damages if it is impossible for him to perform, but if he walks into a situation with his eyes open and creates that impossibility himself, then he is not protected. There has been some slight doubt in some jurisdictions, some States, where the law seems to be that if a man accepts a contract knowing it is going to be subject to some condition that will cause him to have to push aside his other customers, he may not get protection. So there are two points to this bill on that whole problem: one to give us mandatory authority in those areas where we do not have it; and, secondly, to give perfectly clear protection to any manufacturer who complies with our orders.

Mr. BATES. For the extension of this protection to the manufacturers who do comply with your orders, you do not think the President's authority is broad enough?

Mr. SMITH. No; we do not.

Mr. FLAHERTY. I was quite impressed with Mr. Stettinius' statement. He clarified a great deal of the ramifications of his Department, so far as I am concerned. There is one thing I would like to know, Mr. Stettinius, and that is this: In a firm that has both Government orders and private orders, and they are awarded a priority for some critical item, is there any opportunity for leakage of this critical material into the private business of that firm?

Mr. STETTINIUS. We are working on a new system that I think would be a mistake to discuss publicly, which I think will care for any possibility of any leakage. Assuming that 40 percent of a man's business was defense and 60 percent civilian, we will have a system shortly in effect whereby the 40 percent will be taken care of and not the 60 percent, unless there is a sufficient quantity of material.

Mr. FLAHERTY. Would it permit him to manufacture any private articles with the materials he has for defense purposes?

Mr. STETTINIUS. Under the new system we are just in process of polishing up and completing, the answer is "no"; we can take care of that.

The CHAIRMAN. In other words, you can keep down bootlegging of this material?

Mr. STETTINIUS. Yes, sir.

The CHAIRMAN. Thank you very much, Mr. Stettinius. Now we will ask Mr. Emmerich if he wants to make any statement in addition to the one he has already made.

Mr. EMMERICH. No; I have no further statement.

The CHAIRMAN. Mr. Smith, what is your position?

Mr. BLACKWELL SMITH. I am the Assistant Director in connection with policy matters, which means everything nonadministrative.

The CHAIRMAN. Is there any statement you desire to make?

Mr. BLACKWELL SMITH. There are a few points I might touch on hastily.

The CHAIRMAN. Very well.

**STATEMENT OF BLACKWELL SMITH, ASSISTANT DIRECTOR,
PRIORITIES DIVISION, OFFICE OF PRODUCTION MANAGEMENT**

Mr. SMITH. There are several little points for clarification which I might touch on hastily, and then I think Mr. Geoffrey Smith will clear up most of the points.

In the first place, we have talked generally about priority powers in the O. P. M. I just want to refer briefly to the fact that there are functions of the same sort in the Interstate Commerce Commission, the Federal Power Commission, and we have no authority under them, and we are not asking it. Your Maritime Commission has, of necessity, to exercise the same kind of function as to ship cargo space. They are powers which raise a separate problem, and we are not touching on that.

Section 9 has been briefly referred to, the Draft Act. That is way in the background, and we do not consider that a practical daily working authority. But we are leaving that where it is.

Mr. MAAS. In that connection, may I ask you: there is no authority under section 9 to take over a plant because the plant cannot supply with an Executive order, is there?

Mr. SMITH. There is not, unless the Executive order is the kind covered in section 9, directing them to produce a certain item that they are capable of producing at a reasonable price, and if they refuse to do it, the Secretary of War or the Secretary of the Navy, and the O. P. M., that power having been delegated to them, can theoretically take over.

Mr. MAAS. But that power is remote in that situation, so that is not very helpful to you.

Mr. SMITH. It is a very crude "big stick" to be used only in the most extreme kind of a situation. This coordination with the new price administration that has been set up I think calls for a word of clarification. The President is given whatever powers you give him in his new act, and the President has already declared, to Mr. Leon Henderson's new Price Division, what he wants him to do, so the coordination of this additional power and our functions with Leon Henderson's functions will presumably follow completely automatically, in that the powers you give to the President he has already delegated along the two lines, and those lines will not be disturbed, to Leon Henderson and ourselves, and the coordination we have had so far with Mr. Henderson has been absolutely perfect.

The CHAIRMAN. That is to be—

Mr. SMITH. This new administration of prices and civilian supplies.

The CHAIRMAN. Does that come under the Division of Production, or where?

Mr. SMITH. It is a separate organization the President set up, a week or so ago, which they refer to as the O. P. C. C. S.; Office of Price Control and Civilian Supplies, I think is the name of it. It is given broad administrative and advisory powers on the civilian

side, and this act, insofar as it touches the civilian, will be covered in exactly the same way that that Executive order provides, without any new problem being raised, because these powers you give will go to the President and he has already divided the area between the two, so we will not get confused as to whether it is Leon Henderson's or whether it is our power that you confer in this area of allocating the scarce materials to civilians. The President has already provided for that.

The CHAIRMAN. This act delegates the power to the President, which he will in turn pass on to the O. P. M., which in turn will pass it on to the Division of Priorities; is that the way it will work?

Mr. SMITH. So far as our function is concerned, and insofar as any strictly civilian function, the President has already handed that down to Leon Henderson, and presumably will continue to do so. I simply wanted to prevent any error as to whether we are encroaching on Leon Henderson's field by the statute. The answer is no, because the powers this statute provides all go to the President and he has already divided them and will continue to do so, so far as we have any reason to suppose, in the same way as he has already divided them.

The CHAIRMAN. If the President had not divided them, under this bill he could have delegated them all to the Priorities Division.

Mr. SMITH. That is correct. One other thing; a point that I think the committee ought to have in mind about the shortages that appear at the present stage, exceeding those that were expected. In addition to this rapid step-up that Mr. Stettinius mentioned, there is this matter of the filling of the bins of every American industry on items which they had not produced before, and while the production is getting under way there is an extra impact because everybody is filling his bins with the spare parts that go into his production line, and then as production starts coming off the end at a regular rate, and everything is going at the same rate, that will cease. But there is at this moment and it will continue for a matter of months until the whole program is going fairly steadily, this extra load, because of getting in minimum inventories in the American industries.

Passing on the voluntary as against mandatory, I think that has been cleared up, but I am not perfectly sure of it. We have not acted entirely by voluntary action as has been implied here. What we want to get clear is that the lease-lend stuff, the Maritime Commission stuff, which is just as important in every way, there is no mandatory power in that area, and we need to bring it up on a level with the Army and Navy.

Those are the only points that seem to call for any comment from me.

Mr. BRADLEY. I understood you to say you were Assistant Director of Policy.

Mr. SMITH. That is correct.

Mr. BRADLEY. In that connection, maybe you can tell me this; throughout the country there is a training program in effect by various educational agencies, in the different municipalities, to train workers for these industries. There is a big one contemplated in my territory. What is the policy of the O. P. M. relative to prior-

ities for machinery and machine tools to turn out these thousands of workers. Heretofore, I understand, they have not been able to get them, and the training program is stymied.

Mr. SMITH. The program of training is being carried on, and of necessity, with what is left over after the most pressing emergency machinery requirements of the defense program. We have unfortunately, but as we see it, necessarily, put new machinery for the actual production ahead of new machinery for training, and the training then takes place in two ways; one by the working of the trainees right alongside the same machine with the man who is doing the producing. That is where most of it takes place. Secondly, by second-hand machinery which is available for school purposes of the sort you have in mind. We don't think that is good, but as a matter of choice between the two, we do it that way.

Mr. BRADLEY. In the Philadelphia area, which is probably the biggest shipyard area in the United States, with the Philadelphia Navy Yard, the New York Shipbuilding Co., and others, we have been trying to have the Philadelphia Board of Education get a program under way to train about 5,000 workers, and we have not been able to get any priority on the machinery, and the whole program has stopped. The buildings are leased at a great expense, plans were laid, applicants are waiting, men are needed, but we cannot get the machinery. Is there any way we can get priority?

Mr. SMITH. You cannot get priority for a school without short-changing the actual productive machinery that is going right into production at the moment, if they are identical machines and both new, because today the entire capacity of the machine-tool-producing industry is actually full, insofar as special defense machinery is concerned, in making new machinery for the actual immediate production of defense materials.

The CHAIRMAN. The same thing Mr. Bradley has spoken about is happening all over the United States.

Mr. SMITH. That is right.

The CHAIRMAN. Why isn't it a short-sighted policy to go ahead and concentrate on speeding up on the machines when you can't put the machines in operation? You cannot get the machine into production in the defense program if you do not have the skilled workmen to operate it.

Mr. SMITH. There has been reference to time here, and it is a question of time. By doubling up in every productive plant in the country, having the trainees stand right behind the man running the machine, and taking turns with him when the work permits, we are spreading out the training as best we can. The more pressing need at this time seems to be the getting of the new machines for the actual production installed, and the secondary need is the educating of the workmen. By these two ways, with second-hand machines, and by standing the trainees behind the man actually producing the work, we feel we are doing the best we can.

Mr. BRADLEY. The only fault with that is that in the shipbuilding industry that is impractical. You just cannot train men that way.

Mr. SMITH. I will say this: That we have been almost completely influenced by the Army and Navy Munitions Board and their priority committee on these things, and if they recommend to us for a given place that we put in machinery for trainees ahead of some

new machinery for production, we will be greatly influenced by it. But we haven't had that happen so far.

The CHAIRMAN. One of the problems has always been that the Army and the Navy, especially, have not been particularly farsighted in these matters. If they had had a farsighted policy years ago and had started these training schools there would have been a surplus of mechanics all over the country. So I hope you won't confine your attention entirely to the Army and the Navy, but that you will look at it from the standpoint of the emergency situation we are confronted with, and not be entirely controlled by the Army and Navy, because the Navy, particularly, has not a good record by any means on that proposition.

Mr. SMITH. This is a country-wide situation, and if we let down the bars for new machinery for training—

The CHAIRMAN. What I am trying to get over to you is, I hope you will do a little thinking for yourselves and not just get into the rut the Navy did on this matter.

Mr. SMITH. I don't mean to say that we would be exclusively guided by them, but if they recommend that we will be greatly influenced.

Mr. BATES. Can you estimate what your production requirements will be under this defense program? When will we get over the heavy so-called machine-tool hump?

Mr. SMITH. Well, predictions are always uncertain.

Mr. BATES. I know, but estimate as nearly as you can the heavy-tool requirements.

Mr. SMITH. I am afraid that if the 44 billion or thereabouts, that is now provided for, all goes steadily into production it will be some time late next year at the very best before there is any leveling off.

The CHAIRMAN. Are there any questions by any other members of the committee? Thank you very much.

Who is here from the Navy Department that is on this Board?

STATEMENT OF CAPT. A. B. ANDERSON, OFFICE, CHIEF OF NAVAL OPERATIONS

The CHAIRMAN. Captain, you are a member of what is known as the Army and Navy Munitions Board?

Captain ANDERSON. I am a member of the executive committee of the Army and Navy Munitions Board; yes, sir.

The CHAIRMAN. Give us briefly what that Board does, and what is the policy of the Board about purchases.

Captain ANDERSON. The Army and Navy Munitions Board is a joint board of the War and Navy Departments; the members of the Board are the Assistant Secretary of the Navy and Assistant Secretary of the Army; the two Under Secretaries are cochairmen.

The CHAIRMAN. Who are they?

Captain ANDERSON. The two Assistants—Assistant Secretary of War and The Assistant Secretary of the Navy. That Board was organized in 1922 and has been functioning ever since. It was organized pursuant to the provision of the National Defense Act of 1916, modified in 1920, where the Assistant Secretary of War was given statutory responsibility for industrial mobilization. Then the Army

went ahead with that, and the Navy fell in with it, and in 1922 they set up this Army and Navy Munitions Board, and it has been continuous since. Their functions have been the joint planning for industrial mobilization, joint planning of allocation of industry on "M" day, and war program planning generally in a joint way. Since we have had this emergency, the Army and Navy Munitions Board has set up the Army and Navy Munitions Priority Committee, which was set up last June.

The CHAIRMAN. Set up by the Secretary of War?

Captain ANDERSON. It was set up by the Secretary of War and the Secretary of the Navy, and officers that work in the Army and Navy Munitions Board. On August 12 the Army and Navy enunciated a military objective and got out what they call preference ratings or priorities lists, and got out a critical list, and this was done by the Army and Navy long before any O. P. M. was even thought of. The Army and Navy, through the Army and Navy Munitions Board, administered priorities as such from the middle of last summer up until December, when the O. P. M. was set up and this Priorities Division of the O. P. M. came into existence. And then, of course, they have superintended the operation of priorities since then, but the Army and Navy Munitions Board, or Priorities Committee, still has the say-so on military items.

In this critical list you have in the booklet there is a third revision. Originally the idea of the critical list was to put only items in there that were difficult to obtain and of a military characteristic, and that critical list therefore contains military items mostly, more than basic materials, such as aluminum and so forth. That is one reason why aluminum and plain steel and copper and so forth did not appear on the Army and Navy Munitions Board critical list, because if not manufactured or semimanufactured items that would be difficult of obtainment in an emergency, they were not put on that list.

Of course the Army and Navy Munitions Board does do other things, too. They set up a Clearance Committee to take care of the orders of foreign governments; got the answers from the War and Navy Departments and gave a combined answer to the Secretary of State, and cleared that. They perform other functions, too. As I said before, the allocation of materials which did not come into effect in this emergency was not thought necessary. They have it tabulated and they have done good work, in that they have on a card system all pertinent information with regard to much of the facilities of the United States manufacturing facilities.

On the priorities, as I said before, the Army and Navy Munitions Board, or Priorities Committee, which now consists of about six or seven Navy officers and an equal number of Army officers, plus a clerical force, does take care of all the priorities for the Army and Navy and the strictly military priorities, plus the Coast Guard, the Maritime Commission, the Coast and Geodetic Survey, and the National Advisory Committee for Aeronautics, plus the British and Canada. Those duties the O. P. M. feel they cannot undertake; they don't know the military situation as well as the Army and Navy do, so they put it up to the Army and Navy to take care of those priorities.

The CHAIRMAN. Captain, you make up your critical list, and then you take it over to the O. P. M., Mr. Stettinius' group, and you all get together.

Captain ANDERSON. Yes, sir.

The CHAIRMAN. What has been your relationship—harmonious?

Captain ANDERSON. Very harmonious. Of course, the original critical list was more or less made up as a shot in the dark. That is the one we made up last summer. We knew certain things would be critical, because they were critical then.

The CHAIRMAN. What is the basis for the critical list?

Captain ANDERSON. It was a list of articles that the bureaus of the Navy felt they would have difficulty in procuring, in quantity and in time.

The CHAIRMAN. And as time runs on and you hear you have a scarcity of a certain article, you put it on the list?

Captain ANDERSON. Yes, sir.

The CHAIRMAN. For instance, when the list was first made up, you didn't consider aluminum was critical and you didn't put it on.

Captain ANDERSON. That is right.

The CHAIRMAN. And you didn't consider you were having difficulty with armor plate, so you didn't put that on?

Captain ANDERSON. Yes, sir.

The CHAIRMAN. But just as soon as the situation becomes critical in a certain material, you put that material on the critical list?

Captain ANDERSON. That is right.

The CHAIRMAN. And that critical list has priority over any manufacturing throughout the whole Nation; is that correct?

Captain ANDERSON. Well, in a certain way, but the critical list contains the items on which we put priority, preference ratings. If an item doesn't appear on the critical list it presupposes there is such a vast quantity we don't have to worry about it, and the only time we exercise priority is when there is not production facilities to turn out any given amount we might need for a given time.

The CHAIRMAN. It doesn't mean that being on the critical list everything must be concentrated on that production; does it?

Captain ANDERSON. No, sir.

The CHAIRMAN. It means there is not a surplus of that article and therefore priority should be given in the manufacturing and production of it.

Captain ANDERSON. That is right.

The CHAIRMAN. Is that what you take it to mean?

Mr. GEOFFREY SMITH. Yes, sir. I think I can clear up the point this way: the critical list lists the items to which a preference rating can be applied by the Army and Navy for its contracts. The steps are that, first they let a contract, we will say, for airplanes; then they issue a preference rating on that contract; and then that preference rating applies not only to the finished airplane, and makes that the first order of business for the company that is manufacturing, but it also can be extended down to the aluminum, the raw products that go in there, if those raw products are on the critical list, so the critical list is the base to which the preference rating can apply. Now, if it is a matter of getting some ordinary product, such as canvas that goes to manufacture some seat covers for the

airplane, that is not on the critical list, and the preference rating does not apply to that.

The CHAIRMAN. Is there any further statement you wish to make, Captain?

Captain ANDERSON. Only that this amendment to Public, No. 671, I understand from our Judge Advocate General's Office, that the Secretary of the Navy is agreeable to it, and is for it. I haven't asked the Chief of Naval Operations, but I can speak for him. I know a lot about priorities and have worked with it from the beginning, as representative for the Navy on this Priorities Division, and I am quite sure I can speak for the Chief of Naval Operations in saying that the Navy Department would be glad to go along with this; that it is a step in the right direction.

The CHAIRMAN. Then you think passage of this bill will aid both your set-up and the O. P. M.?

Captain ANDERSON. Yes, sir; I do.

The CHAIRMAN. And it is recommended by Mr. Knudsen and Mr. Hillman, and the O. P. M. and there is no objection from the Navy Department or your organization.

Captain ANDERSON. Yes, sir; that is correct.

The CHAIRMAN. On the contrary, it is approved by the Navy Department.

Captain ANDERSON. Yes, sir; I started to say that.

Mr. VINCENT. Let me ask one question. Does your Board have anything to do with the cost of materials? The materials that go into these contracts, I mean.

Captain ANDERSON. No, sir.

Mr. VINCENT. That is one thing I think we are interested in, the cost of things the Army and Navy has to buy. We do not seem to be able to find any one who knows anything about it.

The CHAIRMAN. Yes; we can. We have a subcommittee that will go into that.

Before I read the bill, I would like to file in the record a letter from Mr. Knudsen, and from Mr. Hillman, with a memorandum that was sent along with it.

The letter and memorandum are as follows:

OFFICE OF PRODUCTION MANAGEMENT,
OFFICE OF THE DIRECTOR GENERAL,
Washington, D. C., April 23, 1941.

Hon. CARL VINSON,
House of Representatives, Washington, D. C.

DEAR MR. VINSON: On behalf of the Office of Production Management, there is enclosed herewith the draft of a statutory provision to clarify and amplify the priorities power under the clause in section 2 (a) of Public, 671, Seventy-sixth Congress, third session, together with a memorandum describing the need for such additional legislation.

We understand that you introduced the original bill which was enacted as Public, 671, containing said section 2 (a). Therefore, after consultation with Mr. William W. Dulles, Special Assistant to the Secretary of the Navy, we felt it appropriate to submit the enclosed statutory provision to you.

The sole priorities power at present derives from said section 2 (a), except for special priorities powers vested in particular agencies over the industries which fall within their jurisdiction, such as the Maritime Commission, Power Commission, and Interstate Commerce Commission.

As indicated by the attached memorandum, the priorities power authorized by said section 2 (a) needs amplification and clarification to permit the establishment of an adequate priorities system, and the necessary control of materials in which shortages occur as a result of the impact of the defense program upon our national economy.

The attached memorandum describes the particular points which need amplification and clarification, citing examples of the essential need therefor.

Without such amplification and clarification of said section 2 (a), the Priorities Division of the Office of Production Management cannot adequately deal with the needs of national defense.

The proposed statutory provision has not been drafted in the form of a separate bill, in the belief that it can be appropriately added as an additional provision to a naval or military bill. However, it can, without difficulty, be converted into a separate bill if that appears more appropriate.

The suggested amendment will not result in any direct expenditure of funds and no special appropriation will be required to make it effective.

In view of the serious need for this legislation and the necessity for speed in the defense program, the Office of Production Management urgently recommends expeditious action.

Very truly yours,

WILLIAM S. KNUDSEN,
Director General.
SIDNEY HILLMAN,
Associate Director General.

STATUTORY PROVISION TO SUPPLEMENT AND CLARIFY THE AUTHORITY TO ESTABLISH PRIORITIES UNDER SECTION 2 (A) OF PUBLIC, No. 671 (TO BE INCLUDED IN A BILL DEALING WITH MILITARY OR NAVAL MATTERS)

Deliveries of material to which priority may be assigned pursuant to section 2 (a) of the act of June 28, 1940, entitled "An act to expedite national defense and for other purposes" shall include, in addition to deliveries of material under contracts or orders of the Army or Navy, deliveries of material under—

(1) Contracts or orders of the Government of any country whose defense the President deems vital to the defense of the United States under the terms of the act of March 11, 1941, entitled "An act to promote the defense of the United States";

(2) Contracts or orders which the President shall deem necessary or appropriate to promote the defense of the United States; and

(3) Subcontracts or suborders which the President shall deem necessary or appropriate to the fulfillment of any contract or order as specified above or in said section 2 (a).

Deliveries under any such contract or order may be assigned priority over deliveries under any other contract or order.

Whenever the President is satisfied that the fulfillment of requirements for the defense of the United States will result in a shortage in the supply of any material for defense or for private account or for export, the President may allocate such material in such manner and to such extent as he shall deem necessary or appropriate in the public interest and to promote the national defense.

The President shall be entitled to obtain, from any person, firm, or corporation, information necessary or appropriate, in his discretion, to the enforcement or administration of the foregoing provisions, and for such purpose the President shall have, in addition to the authority to inspect premises and require reports, the same authority as that granted with respect to carriers by sections 12, 20 (5), 46, and 47 of title 49 of the United States Code.

No person, firm, or corporation shall be held liable for damages or penalties for any default under any contract or order which shall result directly or indirectly from his compliance with any rule, regulation, or order issued hereunder or under section 2 (a).

The President may exercise any power, authority, or discretion conferred on him by this act through such department, agency, or officer of the Government as he may direct and in conformity with any rules and regulations which he may prescribe.

MEMORANDUM STATING THE NEED FOR ADDITIONAL LEGISLATION TO CLARIFY THE
PRIORITIES POWER AND SUGGESTING A STATUTORY PROVISION

The only express statutory authority for the exercise of priority powers is contained in the following clause appearing in section 2 (a) of Public 671, Seventy-sixth Congress, third session.

"* * * and deliveries of material under all orders placed pursuant to the authority of this section and all other naval contracts or orders and all Army contracts and orders shall, in the discretion of the President, take priority over all deliveries for private account or for export."

I. SUBCONTRACTS

Although this statutory provision refers only to contracts or orders of the Army and Navy, the words used are "under * * * all * * * contracts or orders * * *." The granting of priorities upon Army and Navy prime contracts calling for delivery of the ultimate military or naval finished product, such as ships, airplanes, tanks, etc., is only partially effective because in most instances the important point at which to obtain the preference comes down the line in the subcontracts for parts, castings, supplies, and materials which enter into the finished product and which are obtained by the prime contractor from others. Usually the producer of the finished military product is either engaged in the manufacture of such items only, or his contracts are of such size that the requisite priority is easily arranged, whereas the subcontractor of parts and materials is usually engaged in ordinary commercial manufacture and to obtain priority for items entering into the military and naval orders, requires that a specific preference be given in order to prefer deliveries over the orders of other customers.

Therefore, it is reasonable to interpret the Congress as having intended by use of the word "under" to include subcontracts.

Such subcontracts may reach through many manufacturers down to the producer of raw materials such as steel, aluminum, nickel, zinc, etc., and may involve an extension of the priority rating of the prime contract through a line of a dozen subcontracts down to the raw material.

Although this interpretation of the word "under" to permit the extension of preference ratings through the entire line of subcontracts to the raw material appears proper and is therefore the interpretation which has been approved by counsel for the Office of Production Management, it would seem wise to have this interpretation definitely confirmed by Congress by amplification of section 2 (a) quoted above.

II. NEED FOR MANDATORY PRIORITIES ON OTHER DEFENSE CONTRACTS

1. *British and other foreign contracts.*—British and other foreign contracts which by national policy have been included as necessary to the defense program of the United States are clearly not covered by section 2 (a) above. However, unless such contracts are to be postponed in all cases to Army and Navy contracts, it is necessary that they be given priority ratings on a basis of equality with Army and Navy contracts. In the case of important military and naval items, such as airplanes, tanks, guns, etc., the load of orders for the United States Army and Navy, if they alone have priority status, would virtually eliminate British and other foreign contracts for these items; the manufacturers capable of producing them would be completely preempted by the Army and Navy contracts as a result of preference ratings granted to the latter. Hence, in order to comply with the national policy of obtaining military and naval products for the British, the Priorities Division has of necessity granted preference ratings to such British and other foreign contracts on a basis of equality with the Army and Navy contracts of the United States. However, in so doing, they have not been able to issue such preference ratings upon a mandatory basis but merely upon a voluntary basis of consent and cooperation.

2. *Other Government contracts.*—Government agencies other than the War Department or Navy Department place contracts which are vital to the defense program; for instance, the Coast Guard, Geodetic Survey, Maritime Commission, Panama Canal, etc. To prevent such contracts from being postponed to the entire military and naval program, the Priorities Division has of necessity issued preference ratings to the contracts of these agencies for ships and other equipment;

again it has not been possible to issue such preference ratings on a mandatory basis but merely on the basis of voluntary cooperation.

3. *Contracts to expand facilities, etc.*—Further, it is essential to the defense program in many instances to grant preference ratings to contracts which are in no sense military or naval or even Government, but which are nevertheless of prime importance to the defense program; for example, to obtain equipment for an expansion of the production facilities for materials in which there is a shortage, viz, aluminum, magnesium, tin, rubber, etc.; or for additional power-producing facilities. Here again the Priorities Division has of necessity issued preference ratings in order that such important items in the defense program should not be postponed to the entire military and naval program; and such preference ratings have had to be on a voluntary basis.

4. *Contracts of vital civilian importance.*—Further, it may often be necessary to grant priority to a civilian need which is not directly connected with defense in any sense, and yet is essential to promote the defense program; for instance, the mechanical facilities for the water system in one of our large cities are notoriously old and in need of renewal. This city is a very important defense center. If by chance a serious break-down should occur in these facilities it would be vital to obtain new machinery quickly; the present overloaded condition of the industries producing such equipment would necessitate the granting of high priority ratings to the orders for such machinery; if this were not done, the delay in obtaining it as a result of other defense priorities certificates already outstanding might be disastrous. Here, although the direct defense is not involved, the granting of preference certificates may become essential. This is only one instance of this type of need which may arise; it is impossible to predict or define the types of equally important situations that may occur, not directly related to defense.

It is apparent that reliance upon preference ratings for the foregoing four categories on a basis of voluntary cooperation has serious dangers.

At any time a manufacturer can refuse to honor such preference-rating certificates and prevent the fulfillment of contracts which are, in some instances, as important to defense as the most important Army and Navy contracts. Further, this need happen, in all probability, only once to bring about widespread disregard of such voluntary certificates.

There is another serious disadvantage in these voluntary preferences: The manufacturer who recognizes them and gives priority to deliveries under them runs the risk of damage suits by any and all private customers if the deliveries to such private customers under contracts and orders already placed are postponed by the recognition of such voluntary preference ratings. To suggest that the manufacturer can protect himself by obtaining the consent of each private customer is an inadequate answer, since such private customers may, within their rights, refuse to grant such consent. Further, when preference ratings are issued on any large scale, as of necessity they must be for British orders and in some instances for other Government agencies and civilian orders, it is difficult, if not impossible, for the manufacturer in all cases to obtain such consent without serious delay.

Thus, the issuance of such voluntary preference ratings places an unfair burden upon the manufacturer who is expected to recognize them. Each manufacturer may be putting his head in a noose which may not draw tight until 6 years hence when sued for damages at the expiration of the period of the statute of limitations.

III. SHORTAGES OF MATERIAL; ALLOCATION

The vast extent of the defense program has led inevitably to serious shortages in the supply of certain important products and raw materials; for instance, machine tools, cranes, aluminum, magnesium, nickel, zinc, tungsten, etc.

It is essential in such instances to conserve and protect the supply for defense needs.

In such instances the priorities system based solely upon the granting of preference ratings to individual contracts has been found inadequate as a method of conserving the supply. Under the system of preference ratings for individual contracts the seepage of the preference ratings through subcontracts to raw materials is slow and ineffective.

It is slow because of the necessity for the gradual subcontracting through what often constitutes a long chain of subcontractors. This lag permits the rapid disappearance of great quantities of the short material into nondefense and often least important uses, frequently for excessive inventory hoarding.

It is ineffective because in many cases the raw material cannot be traced directly into the finished product. For instance, electric motors require the use of materials in which there is a shortage. Electric motors in many cases are standard products made in commercial lines and stocked for delivery; yet electric motors of such stock kinds are used in large quantities in the defense program. The manufacturer of electric motors, when he manufactures them, cannot know which particular motor or what particular part of his stock of motors will go into the defense program, and yet a very substantial part may do so and the manufacturer of electric motors is as important to the defense program for that reason as if they were directly ordered by the Army or Navy.

This same difficulty appears in a myriad of products; for instance, small tools, optical instruments, and accessories and parts of all kinds. Although the system of issuing individual preference rating certificates cannot reach the raw materials for this type of product, it is nevertheless essential that the raw materials of which a shortage exists shall be directed into this type of product.

Such being the case, the Priorities Division has found it necessary where there is a real shortage of a product or material to take control of the entire supply of such product or material, in order to protect the further needs of the defense program. This it has done by the issuance of blanket preference ratings directing that only defense orders, direct or indirect, be filled except as fractions of the supply are released.

When a shortage in a particular material or product occurs, and preference is granted for defense orders, the result inevitably is a shortage in the supply for civilian needs. For instance, in aluminum at the present time the balance available for civilian use, even if we assume that the rate of production will continue without interruption by sabotage, strike, or other stoppage, is only 25 percent of the normal civilian demand. Where this situation occurs it is essential that such fractional supply be carefully allocated to those civilian needs which are most important in the maintenance of our domestic economy. If the distribution of such fractional supplies is left without control, it will be grabbed by the quickest purchaser or the largest purse, without regard to the importance of such purchaser's product in the domestic economy, and, further, such scramble for the available material leads to competitive bidding of the price into extraordinary price rises.

IV. INTERPRETATION OF SECTION 2 (A)

Upon the assumption that Congress must have intended section 2 (a), quoted above, to give effective authority, not only to obtain adequate priority for Army and Navy orders, but also to deal with the results of the exercise of such power, section 2 (a) has been broadly interpreted by counsel for the Office of Production Management and by the Army and Navy. It has been interpreted not only to permit the granting of preference rating certificates to subcontractors and suborders under Army and Navy contracts or orders clear through to the raw materials, but also as follows:

"If the fulfillment of Army and Navy contracts and orders requires deliveries, present and prospective, which will absorb all of the presently available supply of any given material, then the statute warrants 'blanket' orders covering the entire supply of such material requiring the industry to fill none except Army and Navy orders except as released for other purposes.

"If, having reserved the entire current supply of a given material for Army and Navy orders, it is found to be of more benefit to the total defense program to utilize some portion of such material for selected civilian or foreign government uses, the power to reserve the entire supply includes the power to release, by specific allocations or otherwise, such portions as seem necessary for such selected more important uses."

It is apparent that the foregoing requires a liberal interpretation of section 2 (a). Nevertheless, counsel has believed that this interpretation of the congressional intent is warranted, since the section is designed to protect the national-defense program during an emergency period.

However, even this broad interpretation does not give adequate authority to deal with the problem of shortages. The interpretation requires that the shortage already exists to such extent that the presently available supply is all required to fill present and prospective Army and Navy contracts. It is of the utmost importance that steps be taken to conserve the supply before it reaches this point, which, in turn, requires that authority be given to deal with the uses of materials as soon as it appears definite that a shortage will occur. It usually

requires many weeks before a plan for proper conservation of the supply of a material can be actually put into operation after it appears that a shortage will occur, and if there is no authority to deal with the situation until the shortage has occurred, then during the ensuing weeks when the plan is taking effect much time and great quantities of material may disappear to nonessential uses, excessive inventories, and hoarding.

V. INFORMATION

To deal adequately with essential materials and products needed for defense, it is essential to have complete data regarding the supply thereof and productive capacity therefor and the requirements, both military and civilian, for such products and materials. This includes knowledge of inventories and rates of use, which can only be obtained from industry itself.

Further, to allocate materials in which a shortage exists requires complete knowledge of the uses to which the customers of each producer will make of orders to be filled. The foregoing requires authority to obtain information from industry in all of these matters. There is at present no statutory authority to require such information to be furnished by industry either under section 2 (a) or otherwise in connection with the exercise of priorities.

VI. LIABILITY FOR COMPLIANCE WITH PRIORITY RATINGS

Orders placed by the armed services are in most instances not compulsory, but the manufacturer who accepts these orders knows that a preference rating will usually be assigned to such orders the moment he accepts them. He, therefore, knows in accepting such orders that he will in many instances be required to postpone or eliminate deliveries under other orders from civilian customers which are already on his books.

If such manufacturer is sued for damages by one of such other customers for default under such customer's contract, there is some legal doubt whether the manufacturer can plead impossibility of performance since he has accepted the military order with knowledge that it will require such default. It is important to give clear statutory protection to all manufacturers who comply with priority orders.

VII. PROPOSED STATUTORY PROVISION

It is evident from the foregoing that there is need for Congress to clarify its intent and to amplify the authority given by this meager statutory provision contained in section 2 (a) of Public, 671, which forms the entire basis for the establishment of priorities for the defense program.

Therefore, the attached statutory provision has been prepared to clarify and amplify the priorities authority to take care of the necessities as indicated in the foregoing memorandum. The language of the statutory provision adheres to that used in section 2 (a).

The purpose of this statutory provision is sixfold:

1. To permit the assignment of mandatory priorities to contracts or orders of any foreign government which the President brings within the terms of the lease-lend bill.
2. To permit the assignment of mandatory priorities to any contract or order of a Government agency other than the Army or Navy or of private industry which is of vital importance to the defense program (as described above).
3. To make clear that mandatory priorities may be extended to subcontracts and suborders for parts, supplies, and materials which enter directly or indirectly into the fulfillment of the prime contracts which are subject to mandatory priorities.
4. To permit control of the distribution of those products and materials in which shortages appear by reason of the impact of the defense program, and to permit the allocation of such products and materials to defense and to the most important civilian needs in preference to less important uses.
5. To permit adequate information to be obtained to operate the priorities system.
6. To protect persons complying with priority orders against liability for damages.

The CHAIRMAN. Now, I will read the bill, section by section, and we will ask you to explain what each means as we go along.

STATEMENT OF GEOFFREY SMITH, COUNSEL, PRIORITIES DIVISION,
OFFICE OF PRODUCTION MANAGEMENT

Mr. SMITH. Yes, Mr. Chairman.

The CHAIRMAN [reading]:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act approved June 28, 1940, as amended, is amended by inserting "(1)" after "Sec. 2 (a)" and by adding at the end of subsection (a) thereof the following:

"(2) Deliveries of material to which priority may be assigned pursuant to paragraph (1) shall include, in addition to deliveries of material under contracts or orders of the Army or Navy, deliveries of material under—

"(A) contracts or orders from the Government of any country whose defense the President deems vital to the defense of the United States under the terms of the Act of March 11, 1941, entitled "An Act to promote defense of the United States"—

What does that mean down to there?

Mr. SMITH. Down to there it means that whereas the original provision, which appears quoted on the face of the memorandum you have just asked to be inserted in the record, was restricted to Army and Navy contracts, this (A) will now extend that same right to grant priorities to lend-lease contracts, insofar as those remain contracts by the lend-lease governments and the President does not see fit to have the Army and Navy actually let the contracts, which, of course, he actually could do. But insofar as these contracts remain contracts of these governments this will give the right to give them priority status, just as we can our own Army and Navy contracts.

The CHAIRMAN. This (A) means that priority can be given to the lend-lease bill contracts.

Mr. SMITH. That is right.

The CHAIRMAN. Without (A) that could not be done, could it?

Mr. SMITH. Well, it could not be done unless all of the orders for the lend-lease countries should be actually made contracts of the Army and Navy, which is not being done, and is not feasible, because there is so much already let and outstanding.

The CHAIRMAN. Now (B):

Contracts of orders which the President shall deem necessary or appropriate to promote the defense of the United States—

What does that mean?

Mr. SMITH. Those may be of various kinds. In my memorandum on pages 3 and 4 I have covered them. In the first place, the Maritime Commission has very important contracts to get ships built. It would cover those. In the second place, there are various expansion programs for vital materials that are actually short, such as magnesium, aluminum, and some of the specialty steels and so forth. It is important that we grant priorities to these projects for the equipment to construct them. It would cover those. It would also cover any indirect important defense contracts, such as the water supply contract that the chairman mentioned at the beginning here, where it is important to get a water supply for a defense housing program or a group of factories, and you can't get the equipment for it without giving priorities.

The CHAIRMAN. Or a bus to carry people out to work.

Mr. SMITH. Perhaps, if the situation is tight and you couldn't get it otherwise.

Mr. BRADLEY. It would cover the training program too?

Mr. SMITH. It would cover the training program. It is important to keep in mind in this whole program that the moment you start granting priorities on anything, you may then set aside anything you do not grant them on. In other words, the moment the impact of the Army and Navy contracts hits industry, then anything that does not have priority just automatically gets set down. That would be the British, that would be these expansion programs, your training program, or anything else. This is an effort to get authority to give those things priority that should be on a high level, and fit them into the line of importance of the actual military contracts.

The CHAIRMAN. In other words, instead of shutting down the plants, it is to try to keep plants running, even though they do not have a national-defense contract, with those plants that do have a national-defense contract. Keep everything going as far as possible, with the objective of national defense the main consideration.

Mr. SMITH. That problem come up under the next clause down the page. This clause is to see to it that the actual defense needs, not just the strictly military needs, are lifted into a primary position and delivered on time and ahead of nonessential things.

The CHAIRMAN. One might have an important military need, the other has a bearing on it, and so it tries to harmonize and dovetail their importance?

Mr. SMITH. That is right, sir. Take, for instance, magnesium, which is acutely short, there isn't even enough to go around to the military, if you include the British, who are crying for it. We have programs on to make more magnesium, to increase to capacity. It is just as important, if not more important, to see that that a new plant to make magnesium is set up and started, as it is to build airplanes, because you can't build the airplanes without magnesium.

Mr. BATES. As a matter of fact, is the shortage in the mining end?

Mr. SMITH. All ends.

Mr. BATES. Where is the major source?

Mr. SMITH. I am a lawyer, and I am not as familiar as I should be with those problems.

The CHAIRMAN. Where does coal figure on this? It is just as important to have the coal for steam; you have to come right back to that.

Mr. SMITH. I think that after we get this bill, Mr. Chairman, we have got authority then to give priority on coal for defense purposes.

The CHAIRMAN. Where is that?

Mr. SMITH. That is under (B)—

* * * contracts or orders which the President shall deem necessary or appropriate to promote the defense of the United States.

The CHAIRMAN. Under this bill what relation would it have to coal? You say you would give priority on coal, because coal has a direct bearing, in that you have to have coal to furnish the steam to make the armor plate or anything else.

Mr. SMITH. Right.

The CHAIRMAN. So it is an integral part of the defense program. Suppose the coal is not coming out of the bowels of the earth, is there any way you can get it out?

Mr. SMITH. Well, nothing in this bill, or any other priority power, gives you the right to force the manufacture or production of something.

The CHAIRMAN. I understand that.

Mr. SMITH. It merely forces the man who does produce it to give first preference on deliveries of what he does produce. You could not, under this bill, say to the miners, "You have got to work."

The CHAIRMAN. That is right.

Mr. VINCENT. In other words, if there is a shortage of coal due to a strike, the Board could authorize that home owners be deprived in order that industry shall be supplied.

Mr. SMITH. They could. Of course, that would be anthracite, which does not enter into the defense program to any great extent.

The CHAIRMAN. Soft coal does.

Mr. SMITH. Soft coal does, and so far as soft coal is concerned, we could say to the mines, "To the extent it is available, you have to ship that coal to this spot, or that spot, rather than somewhere else."

The CHAIRMAN. Or you could allocate it, even if there wasn't a shortage.

Mr. SMITH. Yes.

The CHAIRMAN. You could allocate it to this plant or that plant.

Mr. SMITH. That is right.

The CHAIRMAN. Instead of sending it to a textile mill that might be making hosiery or overalls, you could say, "Send this to a manufacturing plant," which might be making guns.

Mr. SMITH. That is right.

The CHAIRMAN. You have authority over anything that has to do with national defense—all material.

Mr. SMITH. That relates to national defense.

The CHAIRMAN. Every material has some bearing on national defense. You could hardly say that any material is devoid of national-defense relation. For instance, the cotton in the field has a bearing on the national defense, in that it furnishes the clothes for the troops, and is used in ammunition, so it has some worth. Therefore, everything is going to fall under allocation and priority by the provisions of this bill.

Mr. SMITH. Well, I think everything would if you stretch your definition of defense that far. We have taken the position that only when there is a fairly direct defense impact—we have not stepped aside into foods and clothing or any of those items. We have got our hands so full with the others that I don't believe we ever could.

The CHAIRMAN. But there is power enough in here to permit that.

Mr. SMITH. There is power enough in here, if it can be determined that a material is important to the defense program. If a shortage is occurring, then you could deal with it under this bill.

Mr. BRADLEY. It would not affect coal for domestic consumption, would it?

Mr. SMITH. No, sir?

The CHAIRMAN. Let us go on to (C).

(C) subcontracts or suborders which the President shall deem necessary or appropriate to the fulfillment of any contract or order as specified in this section.

Mr. SMITH. That is in clarification. The original bill says nothing about subcontracts.

The CHAIRMAN. You mean the original law.

Mr. SMITH. The original law, yes, as it now stands.

The CHAIRMAN. This merely extends it down, and it may even go on further; it may go down three or four degrees.

Mr. SMITH. We have been interpreting this as doing that under Army and Navy contracts only. We have been granting mandatory certificates for all the supplies that flow into Army and Navy contracts, on the theory that the present law gives authority for it, but, as you see, it needs clarification, and also when you add those other types of contracts, you need clarification for those as well.

The CHAIRMAN. All right; now—

Deliveries under any contract or order specified in this section may be assigned priority over deliveries under any other contract or order. Whenever the President is satisfied that the fulfillment of requirements for the defense of the United States will result in a shortage in the supply of any material for defense or for private account or for export, the President may allocate such material in such manner and to such extent as he shall deem necessary or appropriate in the public interest and to promote the national defense. The President shall be entitled to obtain such information from, require such reports by, and make such inspection of the premises of, any person, firm, or corporation as may be necessary or appropriate, in his discretion, to the enforcement or administration of the provisions of this section. No person, firm, or corporation shall be held liable for damages or penalties for any default under any contract or order which shall result directly or indirectly from his compliance with any rule, regulation, or order issued under this section. The President may exercise any power, authority, or discretion conferred on him by this section, through such department, agency, or officer of the Government as he may direct and in conformity with any rules and regulations which he may prescribe.

Mr. SMITH. The first sentence means just what it says, and it is important from this viewpoint. Today the existing authority deals only with Army and Navy contracts and it only permits you to put them ahead of private contracts and export contracts. It is frequently necessary to get priority for Army and Navy and other contracts over some other public agency contract.

The CHAIRMAN. And the law originally was only with reference to private account and exports?

Mr. SMITH. That is right.

The CHAIRMAN (reading):

Whenever the President of the United States is satisfied the fulfillment of requirements for the defense of the United States will result in a shortage * * *.

That merely means if the President makes a survey and finds a shortage of material, he allocates it to that which in the judgment of the Priorities Division is the most important use.

Mr. SMITH. That is right. I want to point out there that this extends the authority we feel we now have, namely, to deal with those shortages as they occur, but very often that is too late; once the shortage becomes acute you have lost your horse out of the stable.

This will give the President, or whatever agency he assigns the power to, the right to foresee a shortage before it becomes acute and take the necessary steps to prevent it from becoming acute. That is a very important authority that we badly need at the moment, because as the impact of this program hits us, there are in various fields more and more areas where you can see on the horizon a shortage that has not become acute as yet.

The CHAIRMAN (reading):

The President shall be entitled to obtain such information—

That is a rather unusual word, isn't it?

information from, require such reports by, and make such inspection of the premises of any person, firm, or corporation as may be necessary or appropriate, in his discretion, to the enforcement or administration of the provisions of this section.

What does that mean?

Mr. SMITH. That means this: When we come to deal with the whole problem of priorities, it is impossible to know, first, the effect of what we are doing or, second, the existing status of supplies and requirements upon which to act, unless we have that information. The information lies in the hands of industry throughout the country. It is important for us that we have the right to get from industry statements as to what their production capacities are, what their expansion programs are, what inventories they have on hand, and then when we get to these shortage problems, what uses are being made of the orders they are filling as a whole. We feel that it is important for us to be able to get that information on an authoritative basis at any time. At present we are getting a great deal of it, but at any time now an industry can say, "No, we will not give it to you," and we cannot point to any authority.

The CHAIRMAN. Even with this, you couldn't make them, could you?

Mr. SMITH. We are perfectly satisfied they would comply, but any court would issue an injunction.

The CHAIRMAN. A mandatory decree?

Mr. SMITH. Yes.

The CHAIRMAN. This can be enforced by civil process?

Mr. SMITH. Yes.

The CHAIRMAN. Do you like the words "shall be entitled to"?

Mr. SMITH. Not particularly. "Hereby authorized—"

The CHAIRMAN. "Shall be entitled to obtain such information from, require such reports by, and make such inspection of." I am perfectly willing to leave the word "entitled" in there.

Mr. SMITH. "He shall have authority."

The CHAIRMAN. "The President shall have authority to obtain such information." That would give you some background, which "entitled" will not.

Mr. BATES. Or "The President is hereby authorized * * *."

The CHAIRMAN. "The President is hereby authorized * * *."

Mr. BRADLEY. Will that make it mandatory on them to give it to him? Wouldn't it be better if you would say, "Any corporation, firm, or person shall furnish to the President"?

Mr. SMITH. Of course the word "entitled" carries with it authority to force them to give it to him. I think perhaps you are right, that the amended suggestion might not.

The CHAIRMAN. "The President is hereby authorized to obtain such information?"

Mr. BRADLEY. You might go further and say, "That any person, firm, or corporation shall furnish * * *." Then I think you will cover it completely, both with respect to it being mandatory on the President to procure it, and on them to furnish it.

Mr. FLAHERTY. It would give the President authority to get the information, but this entitles him to it.

Mr. BRADLEY. I don't think "entitled" is broad enough.

The CHAIRMAN. Do you think you could enforce that provision by mandatory decree?

Mr. SMITH. Yes, sir; I do.

The CHAIRMAN. All right; we will leave 4 or 5 in; you are the lawyer.

No person, firm or corporation shall be held liable for damages or penalties for any default under any contract or order which shall result directly or indirectly from his compliance with any rule, regulation, or order issued under this section.

That means if a man has got a contract to deliver such and such material and on account of a priority order issued by the O. P. M. or the critical list of the Navy Department, he does not deliver, they cannot assess damages for failure to deliver.

Mr. SMITH. That is right.

Mr. BATES. Let me raise this hypothetical situation. Take a contractor who is erecting a building, with a completion penalty, and the Government steps in to his subcontractor and says, "Here, all this heating equipment you are going to put in that building, or the plumbing material, must go into defense work." Thus depriving the building contractor who, as I said was under a completion penalty clause. What happens to the prime contractor in that respect?

Mr. SMITH. You mean the other prime contractor?

Mr. BATES. Yes, the contractor who has a contract to erect the new building, with a completion date and a penalty clause in the contract. What happens to him when the Government steps in and takes away the heating equipment and the plumbing equipment that was supposed to go in the building, which was already contracted for, again under a completion date with a penalty clause with the contractor we are stopping now and taking this material from.

Mr. SMITH. I think this would cover it, Mr. Bates.

Mr. BATES. How far does this run back?

Mr. SMITH. This goes back to any default which results from a proper priority order issued.

Mr. BATES. It may run back 4 or 5 degrees in private industry?

Mr. SMITH. It may run a long distance.

The CHAIRMAN. And we are already trying to do that, by order of the President to the War Department and Labor Department, with reference to contracts that must be delivered within a certain period of time. You will find that in the booklet here.

Let there be printed in the record the memorandum by Mr. Smith.

The memorandum is as follows:

MEMORANDUM SUBMITTED TO THE HOUSE NAVAL AFFAIRS COMMITTEE, MONDAY,
APRIL 28, 1941

By the Priorities Division of the Office of Production Management stating the need for additional legislation to clarify the priorities power and suggesting a statutory provision

The only express statutory authority for the exercise of priority powers is contained in the following clause appearing in section 2 (a) of Public, 671, Seventy-sixth Congress, third session.

"* * * and deliveries of material under all orders placed pursuant to the authority of this section and all other naval contracts or orders and all Army contracts and orders shall, in the discretion of the President, take priority over all deliveries for private account or for export."

I. SUBCONTRACTS

Although this statutory provision refers only to contracts or orders of the Army and Navy, the words used are "under * * * all * * * contracts or orders * * *." The granting of priorities upon Army and Navy prime contracts calling for delivery of the ultimate military or naval finished product, such as ships, airplanes, tanks, etc., is only partially effective because in most instances the important point at which to obtain the preference comes down the line in the subcontracts for parts, castings, supplies, and materials which enter into the finished product and which are obtained by the prime contractor from others. Usually the producer of the finished military product is either engaged in the manufacture of such items only, or his contracts are of such size that the requisite priority is easily arranged, whereas the subcontractor of parts and materials is usually engaged in ordinary commercial manufacture and to obtain priority for items entering into the military and naval orders, requires that a specific preference be given in order to prefer deliveries over the orders of other customers.

Therefore, it is reasonable to interpret the Congress as having intended by use of the word "under" to include subcontracts.

Such subcontracts may reach through many manufacturers down to the producer of raw materials such as steel, aluminum, nickel, zinc, etc., and may involve an extension of the priority rating of the prime contract through a line of a dozen subcontracts down to the raw material.

Although this interpretation of the word "under" to permit the extension of preference ratings through the entire line of subcontracts to the raw material appears proper and is therefore the interpretation which has been approved by counsel for the Office of Production Management, it would seem wise to have this interpretation definitely confirmed by Congress by amplification of section 2 (a) quoted above.

II. NEED FOR MANDATORY PRIORITIES ON OTHER DEFENSE CONTRACTS

1. *British and other foreign contracts.*—British and other foreign contracts which by national policy have been included as necessary to the defense program of the United States are clearly not covered by section 2 (a) above. However, unless such contracts are to be postponed in all cases to Army and Navy contracts, it is necessary that they be given priority ratings on a basis of equality with Army and Navy contracts. In the case of important military and naval items, such as airplanes, tanks, guns, etc., the load of orders for the United States Army and Navy, if they alone have priority status, would virtually eliminate British and other foreign contracts for these items; the manufacturers capable of producing them would be completely preempted by the Army and Navy contracts as a result of preference ratings granted to the latter. Hence, in order to comply with the national policy of obtaining military and naval products for the British, the Priorities Division has of necessity granted preference ratings to such British and other foreign contracts on a basis of equality with the Army and Navy contracts of the United States. However, in so doing they have not been able to issue such preference ratings upon a mandatory basis but merely upon a voluntary basis of consent and cooperation.

2. *Other Government contracts.*—Government agencies other than the War Department or Navy Department place contracts which are vital to the defense program; for instance, the Coast Guard, Geodetic Survey, Maritime Commission, Panama Canal, etc. To prevent such contracts from being postponed to the entire military and naval program, the Priorities Division has of necessity issued preference ratings to the contracts of these agencies for ships and other equipment; again it has not been possible to issue such preference ratings on a mandatory basis but merely on the basis of voluntary cooperation.

3. *Contracts to expand facilities, etc.*—Further, it is essential to the defense program in many instances to grant preference ratings to contracts which are in no sense military, or naval, or even Government, but which are nevertheless of prime importance to the defense program; for example, to obtain equipment for an expansion of the production facilities for materials in which there is a shortage, viz, aluminum, magnesium, tin, rubber, etc.; or for additional power-producing facilities. Here again the Priorities Division has of necessity issued preference ratings in order that such important items in the defense program should not be postponed to the entire military and naval program; and such preference ratings have had to be on a voluntary basis.

4. *Contracts of vital civilian importance.*—Further, it may often be necessary to grant priority to a civilian need which is not directly connected with defense in any sense, and yet is essential to promote the defense program; for instance, the mechanical facilities for the water system in one of our large cities are notoriously old and in need of renewal. This city is a very important defense center. If by change a serious break-down should occur in these facilities it would be vital to obtain new machinery quickly; the present overloaded condition of the industries producing such equipment would necessitate the granting of high priority ratings to the orders for such machinery; if this were not done, the delay in obtaining it as a result of other defense priorities certificates already outstanding might be disastrous. Here, although the direct defense is not involved, the granting of preference certificates may become essential. This is only one instance of this type of need which may arise; it is impossible to predict or define the types of equally important situations that may occur, not directly related to defense.

It is apparent that reliance upon preference ratings for the foregoing four categories on a basis of voluntary cooperation has serious dangers.

At any time a manufacturer can refuse to honor such preference rating certificates and prevent the fulfillment of contracts which are, in some instances, as important to defense as the most important Army and Navy contracts. Further, this need happen, in all probability, only once to bring about widespread disregard of such voluntary certificates.

There is another serious disadvantage in these voluntary preferences: The manufacturer who recognizes them and gives priority to deliveries under them, runs the risk of damage suits by any and all private customers if the deliveries to such private customers under contracts and orders already placed are postponed by the recognition of such voluntary preference ratings. To suggest that the manufacturer can protect himself by obtaining the consent of each private customer is an inadequate answer, since such private customers may, within their rights, refuse to grant such consent. Further, when preference ratings are issued on any large scale, as of necessity they must be for British orders and in some instances for other Government agencies and civilian orders, it is difficult, if not impossible, for the manufacturer in all cases to obtain such consent without serious delay.

Thus, the issuance of such voluntary preference ratings places an unfair burden upon the manufacturer who is expected to recognize them. Each manufacturer may be putting his head in a noose which may not draw tight until 6 years hence when sued for damages at the expiration of the period of the statute of limitations.

III. SHORTAGE OF MATERIAL—ALLOCATION

The vast extent of the defense program has led inevitably to serious shortages in the supply of certain important products and raw materials; for instance, machine tools, cranes, aluminum, magnesium, nickel, zinc, tungsten, etc.

It is essential in such instances to conserve and protect the supply for defense needs.

In such instances the priorities system based solely upon the granting of preference ratings to individual contracts has been found inadequate as a method of conserving the supply. Under the system of preference ratings for individual contracts the seepage of the preference ratings through subcontracts to raw materials is slow and ineffective.

It is slow because of the necessity for the gradual subcontracting through what often constitutes a long chain of subcontractors. This lag permits the rapid disappearance of great quantities of the short material into nondefense and often least important uses, frequently for excessive inventory hoarding.

It is ineffective because in many cases the raw material cannot be traced directly into the finished product. For instance, electric motors require the use of materials in which there is a shortage. Electric motors in many cases are standard products made in commercial lines and stocked for delivery; yet electric motors of such stock kinds are used in large quantities in the defense program. The manufacturer of electric motors, when he manufactures them, cannot know which particular motor or what particular part of his stock of motors will go into the defense program, and yet a very substantial part may do so and the manufacture of electric motors is as important to the defense program for that reason as if they were directly ordered by the Army or Navy.

This same difficulty appears in a myriad of products; for instance, small tools, optical instruments, and accessories and parts of all kinds. Although the system of issuing individual preference rating certificates cannot reach the raw materials for this type of product, it is nevertheless essential that the raw materials of which a shortage exists, shall be directed into this type of product.

Such being the case, the Priorities Division has found it necessary where there is a real shortage of a product or material to take control of the entire supply of such product or material, in order to protect the further needs of the defense program. This it has done by the issuance of blanket preference ratings directing that only defense orders, direct or indirect, be filled except as fractions of the supply are released.

When a shortage in a particular material or product occurs, and preference is granted for defense orders, the result inevitably is a shortage in the supply for civilian needs. For instance, in aluminum at the present time the balance available for civilian use, even if we assume that the rate of production will continue without interruption by sabotage, strike, or other stoppage, is only 25 percent of the normal civilian demand. Where this situation occurs it is essential that such fractional supply be carefully allocated to those civilian needs which are most important in the maintenance of our domestic economy. If the distribution of such fractional supplies is left without control, it will be grabbed by the quickest purchaser or the largest purse, without regard to the importance of such purchaser's product in the domestic economy, and, further, such scramble for the available material leads to competitive bidding of the price into extraordinary price rises.

IV. INTERPRETATION OF SECTION 2 (A)

Upon the assumption that Congress must have intended section 2 (a), quoted above, to give effective authority, not only to obtain adequate priority for Army and Navy orders, but also to deal with the results of the exercise of such power, section 2 (a) has been broadly interpreted by counsel for the Office of Production Management and by the Army and Navy. It has been interpreted not only to permit the granting of preference rating certificates to subcontractors and suborders under Army and Navy contracts or orders clear through to the raw materials, but also as follows:

"If the fulfillment of Army and Navy contracts and orders requires deliveries, present and prospective, which will absorb all of the presently available supply of any given material, then the statute warrants 'blanket' orders covering the entire supply of such material requiring the industry to fill none except Army and Navy orders except as released for other purposes.

"If, having reserved the entire current supply of a given material for Army and Navy orders, it is found to be of more benefit to the total defense program to utilize some portion of such material for selected civilian or foreign government uses, the power to reserve the entire supply includes the power to release, by specific allocations or otherwise such portions as seem necessary for such selected more important uses."

It is apparent that the foregoing requires a liberal interpretation of section 2 (a). Nevertheless, counsel has believed that this interpretation of the congressional intent is warranted, since the section is designed to protect the national-defense program during an emergency period.

However, even this broad interpretation does not give adequate authority to deal with the problem of shortages. The interpretation requires that the shortage already exist to such extent that the presently available supply is all required to fill present and prospective Army and Navy contracts. It is of the utmost importance that steps be taken to conserve the supply before it reaches this point, which, in turn, requires that authority be given to deal with the uses of materials as soon as it appears definite that a shortage will occur. It usually requires many weeks before a plan for proper conservation of the supply of a material can be actually put into operation after it appears that a shortage will occur, and if there is no authority to deal with the situation until the shortage has occurred, then during the ensuing weeks when the plan is taking effect much time and great quantities of material may disappear to nonessential uses, excessive inventories, and hoarding.

V. INFORMATION

To deal adequately with essential materials and products needed for defense it is essential to have complete data regarding the supply thereof and productive capacity therefor, and the requirements, both military and civilian, for such products and materials. This includes knowledge of inventories and rates of use which can only be obtained from industry itself.

Further, to allocate materials in which a shortage exists requires complete knowledge of the uses to which the customers of each producer will make of orders to be filled. The foregoing requires authority to obtain information from industry in all of these matters. There is at present no statutory authority to require such information to be furnished by industry either under section 2 (a) or otherwise in connection with the exercise of priorities.

VI. LIABILITY FOR COMPLIANCE WITH PRIORITY RATINGS

Orders placed by the armed services are in most instances not compulsory, but the manufacturer who accepts these orders knows that a preference rating will usually be assigned to such orders the moment he accepts them. He, therefore, knows in accepting such orders that he will in many instances be required to postpone or eliminate deliveries under other orders from civilian customers which are already on his books.

If such manufacturer is sued for damages by one of such other customers for default under such customer's contract, there is some legal doubt whether the manufacturer can plead impossibility of performance, since he has accepted the military order with knowledge that it will require such default. It is important to give clear statutory protection to all manufacturers who comply with priority orders.

VII. PROPOSED STATUTORY PROVISION

It is evident from the foregoing that there is need for Congress to clarify its intent and to amplify the authority given by this meager statutory provision contained in section 2 (a) of Public, No. 671, which forms the entire basis for the establishment of priorities for the defense program.

Therefore, it appears necessary to enact an amendment to said section 2 (a) to clarify and amplify the priorities authority to take care of the necessities as indicated in the foregoing memorandum. The language of such amendment should adhere to that used in section 2 (a).

The purpose of such amendment is sixfold:

1. To permit the assignment of mandatory priorities to contracts or orders of any foreign government which the President brings within the terms of the lease-lend bill.

2. To permit the assignment of mandatory priorities to any contract or order of a Government agency other than the Army or Navy or of private industry which is of vital importance to the defense program.

3. To make clear that mandatory priorities may be extended to subcontracts and suborders for parts, supplies, and materials which enter directly or indirectly into the fulfillment of the prime contracts which are subject to mandatory priorities.

4. To permit control of the distribution of those products and materials in which shortages appear by reason of the impact of the defense program and to permit the allocation of such products and materials to defense and to the most important civilian needs in preference to less important uses.

5. To permit adequate information to be obtained to operate the priorities system.

6. To protect persons complying with priority orders against liability for damages.

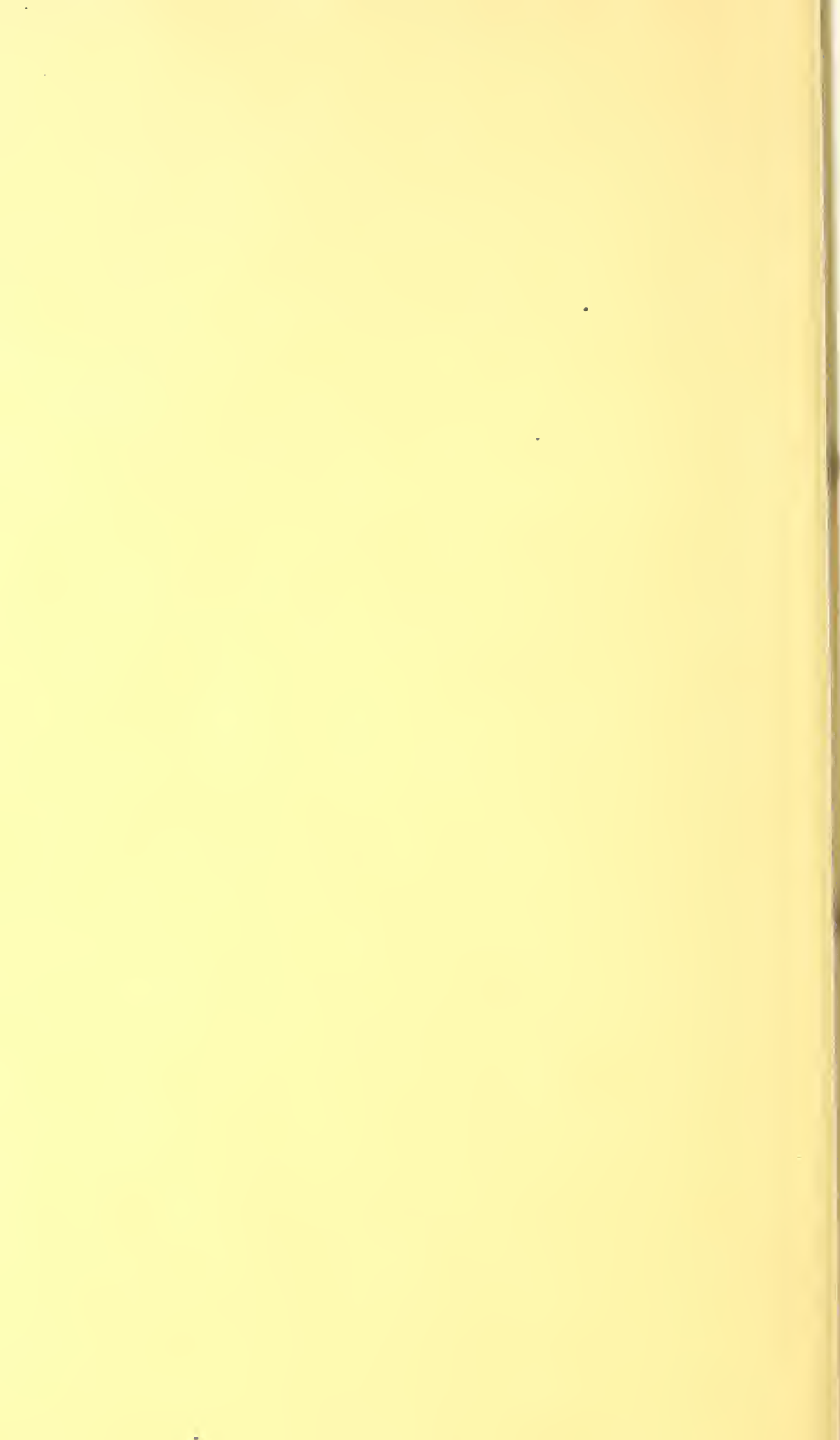
The CHAIRMAN. What is the pleasure of the committee with reference to the bill?

Mr. BATES. I move we report it.

The CHAIRMAN. Without objection, the bill will be unanimously reported, and I will report the bill.

(Whereupon at 12:30 p. m., the committee adjourned, subject to the call of its chairman.)





AMENDING THE ACT APPROVED JUNE 28, 1940, ENTITLED "AN ACT TO EXPEDITE THE NATIONAL DEFENSE, AND FOR OTHER PURPOSES," IN ORDER TO EXTEND THE POWER TO ESTABLISH PRIORITIES AND ALLOCATE MATERIAL

APRIL 29, 1941.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

Mr. VINSON of Georgia, from the Committee on Naval Affairs, submitted the following

REPORT

[To accompany H. R. 4534]

The Committee on Naval Affairs, to whom was referred the bill (H. R. 4534) to amend the act approved June 28, 1940, entitled "An act to expedite the national defense, and for other purposes," in order to extend the power to establish priorities and allocate material, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

OUTLINE OF PRIORITIES SYSTEM

The President delegated to the Office of Production Management, by Executive Order No. 8629, dated January 7, 1941, his authority to establish priorities under section 2 (a) of Public, 671 (76th Cong., 3d sess.). The President, in the Executive order, further provided for the establishment within the Office of Production Management of a Division of Priorities, in charge of a Director of Priorities, and thereafter E. R. Stettinius, Jr., was appointed Director of Priorities by the Office of Production Management, with the approval of the President.

The Office of Production Management, by its Regulation No. 3, dated March 7, 1941, prescribed the duties and functions of the Director of Priorities and of the Priorities Division under his direction.

Regulation No. 3 of the Office of Production Management, which was specifically approved by the President, charges the Director of Priorities and the Priorities Division with broad responsibility for the establishment of a priorities system to bring about prompt delivery of defense material and other material important to the defense program.

The Director of Priorities, acting under the foregoing authority, has been administering the priorities system in cooperation with the armed services.

The Army and Navy Munitions Board (a joint body) establishes the order of importance of military and naval needs by so-called Directives. These Directives specify the schedule of ratings to be applied by types of contracts for military and naval material.

The Army and Navy Munitions Board also specifies a Priorities Critical List, subject to the approval of the Director of Priorities, which list contains some 200 items to which the ratings may be applied.

The Director of Priorities issues four types of preference rating certificates. One type of certificate is for use entirely for Army and Navy contracts, and subcontracts for fulfillment thereof, and are mandatory in form. These are assigned to specific contracts by the field officers of the Army and Navy. The other three types of certificates are: (1) For foreign government contracts, (2) for contracts of other United States Government agencies, and (3) for civilian contracts; and all three of these certificates are voluntary in form, and in most instances are assigned direct by the Priorities Division.

The priorities system is operated under the direct authority of the Priorities Division; its entire operation, however, is in close collaboration with the armed services and their field officers.

It has been found essential to establish priorities for the contracts of the British Empire and other foreign governments whose defense is important to the United States, and to contracts of other Government agencies, such as the Maritime Commission, the Coast Guard, and the Panama Canal, which are likewise vital to the defense program; and further to some civilian contracts, for instance, those for the expansion of the production of essential scarce materials.

Further, where the shortage of scarce materials has become acute, it has been found necessary to deal with them more directly than can be done through the assignment of priority ratings to contracts. Therefore, where acute shortages have occurred in materials such as magnesium, aluminum, nickel, zinc, etc., general orders have been issued by the Director of Priorities, directing the distribution of the supplies of these materials; first, to the defense program, and, second, to those civilian needs most important to the national economy, subordinating the least essential needs in order to conserve the supply.

The Priorities Division, for the proper operation of an adequate system of priorities, needs clarification and extension of the statutory authority which is now derived solely from said section 2 (a) of Public, 671, for the reasons hereinafter specified.

NEED FOR PROPOSED LEGISLATION

1. MANDATORY AUTHORITY

The only mandatory power for the establishment of priorities is derived from the following clause in section 2 (a) of Public, 671, Seventy-sixth Congress, third session, which the director of priorities is authorized to exercise:

* * * deliveries of material under all orders placed pursuant to the authority of this section and all other naval contracts or orders and all Army con-

tracts and orders shall, in the discretion of the President, take priority over all deliveries for private account or for export.

Under this clause, mandatory priorities can only be invoked for material which enters into Army and Navy contracts.

II. NEED FOR MANDATORY PRIORITIES ON OTHER DEFENSE CONTRACTS

1. *British and other foreign contracts.*—British and other foreign contracts which by national policy have been included as necessary to the defense program of the United States are clearly not covered by section 2 (a) above. However, unless such contracts are to be postponed in all cases to Army and Navy contracts, it is necessary that they be given priority ratings on a basis of equality with Army and Navy contracts. In the case of important military and naval items, such as airplanes, tanks, guns, etc., the load of orders for the United States Army and Navy, if they alone have priority status, would virtually eliminate British and other foreign contracts for these items; the manufacturers capable of producing them would be completely preempted by the Army and Navy contracts as a result of preference ratings granted to the latter. Hence, in order to comply with the national policy of obtaining military and naval products for the British, the Priorities Division has of necessity granted preference ratings to such British and other foreign contracts on a basis of equality with the Army and Navy contracts of the United States. However, in so doing, they have not been able to issue such preference ratings upon a mandatory basis but merely upon a voluntary basis of consent and cooperation.

Subparagraph (A) of the bill will give the right to establish mandatory priorities with respect to such foreign contracts.

2. *Other contracts.*—(a) *Government departments and agencies.*—Government agencies other than the War Department or Navy Department place contracts which are vital to the defense program; for instance, the Coast Guard, Geodetic Survey, Maritime Commission, Panama Canal, etc. To prevent such contracts from being postponed to the entire military and naval program, the Priorities Division has of necessity issued preference ratings to the contracts of these agencies for ships and other equipment; again it has not been possible to issue such preference ratings on a mandatory basis but merely on the basis of voluntary cooperation.

(b) *To expand facilities, etc.*—Further, it is essential to the defense program in many instances to grant preference ratings to contracts which are in no sense military or naval or even Government, but which are nevertheless of prime importance to the defense program; for example, to obtain equipment for an expansion of the production facilities for materials in which there is a shortage; viz, aluminum, magnesium, tin, rubber, etc.; or for additional power-producing facilities. Here again the Priorities Division has of necessity issued preference ratings in order that such important items in the defense program should not be postponed to the entire military and naval program; and such preference ratings have had to be on a voluntary basis.

(c) *Vital civilian projects.*—Further, it may often be necessary to grant priority to a civilian need which is not directly connected with defense in any sense, and yet is essential to promote the defense

program; for instance, the mechanical facilities for the water system in one of our large cities are notoriously old and in need of renewal. This city is a very important defense center. If by chance a serious break-down should occur in these facilities it would be vital to obtain new machinery quickly; the present overloaded condition of the industries producing such equipment would necessitate the granting of high priority ratings to the orders for such machinery; if this were not done, the delay in obtaining it as a result of other defense priorities certificates already outstanding might be disastrous. Here, although the direct defense is not involved, the granting of preference certificates may become essential. This is only one instance of this type of need which may arise; it is impossible to predict or define the types of equally important situations that may occur, not directly related to defense.

It is apparent that reliance upon preference ratings for the foregoing four categories on a basis of voluntary cooperation has serious dangers.

At any time a manufacturer can refuse to honor such preference-rating certificates and prevent the fulfillment of contracts which are, in some instances, as important to defense as the most important Army and Navy contracts. Further, this need happen, in all probability, only once to bring about widespread disregard of such voluntary certificates.

There is another serious disadvantage in these voluntary preferences: The manufacturer who recognizes them and gives priority to deliveries under them, runs the risk of damage suits by any and all private customers if the deliveries to such private customers under contracts and orders already placed are postponed by the recognition of such voluntary preference ratings. To suggest that the manufacturer can protect himself by obtaining the consent of each private customer is an inadequate answer, since such private customers may, within their rights, refuse to grant such consent. Further, when preference ratings are issued on any large scale, as of necessity they must be for British orders and in some instances for other Government agencies and civilian orders, it is difficult, if not impossible, for the manufacturer in all cases to obtain such consent without serious delay.

Thus, the issuance of such voluntary preference ratings places an unfair burden upon the manufacturer who is expected to recognize them. Each manufacturer may be putting his head in a noose which may not draw tight until 6 years hence when sued for damages at the expiration of the period of the statute of limitations.

Subparagraph (B) of the bill will give authority to establish mandatory priorities with respect to these other contracts important to the defense program.

III. SUBCONTRACTS

The above-quoted provision of section 2 (a) of Public, 671, has been interpreted to cover, not only the end products which are ordered directly by the services, but also the material which enters into those products through subcontracts. Such interpretation needs statutory clarification.

Further, such right to grant priority to subcontracts should apply not only to Army and Navy contracts but to all important defense contracts which the bill will bring under the mandatory authority.

Subparagraph (C) of the bill will accomplish this purpose.

IV. LIMITATION UPON THE SUBORDINATION OF OTHER CONTRACTS

Section 2 (a) permits contracts of the Army or Navy to be placed ahead of contracts for private account or for export, but not ahead of those of other Government agencies. It is essential for the proper operation of a priorities system that this limitation be removed by statutory enactment.

The bill covers this point by the sentence on page 2 thereof, which reads (lines 14 to 16, inclusive):

Deliveries under any contract or order specified in this section may be assigned priority over deliveries under any other contract or order.

V. SHORTAGES OF MATERIALS—INTERPRETATION OF SECTION 2 (A)—ALLOCATIONS

Upon the understanding that Congress intended by section 2 (a) to get priority for the needs of the defense program, a broad interpretation has been given to the section. Acting upon this interpretation and in order to meet the necessities, the Director of Priorities has exercised industry-wide priorities control over the supply of those materials and products where acute shortages have occurred, directing their use first for defense needs and directing the distribution of any balances according to broad schedules of civilian needs in order of importance. This interpretation of the section should have statutory confirmation.

Serious shortages of essential defense materials and products will continue to result from the impact of the defense program. It is essential where these impend, that the supply be protected in advance for defense needs. Steps must be taken to conserve the supply before the shortages become acute. This requires authority to allocate the supply so as to fill the defense requirements and the most essential civilian needs, and eliminate the unnecessary uses, in order to prevent an acute shortage.

Confirmation of the right to deal with acute shortages, and further to conserve the supply to prevent acute shortages will be covered by the sentence in the bill which reads (p. 2, lines 16 to 22, inclusive):

Whenever the President is satisfied that the fulfillment of requirements for the defense of the United States will result in a shortage in the supply of any material for defense or for private account or for export, the President may allocate such material in such manner and to such extent as he shall deem necessary or appropriate in the public interest and to promote the national defense.

VI. INFORMATION

In order to establish and operate an intelligent priorities system upon the scale which the present defense program necessitates, we must have full information regarding the supplies and requirements of materials, productive capacities, inventories, and uses. This information must be obtained from industry. There is at present no statutory authority to require such information, and such authority should be provided.

Provision is made in the bill for obtaining such information by the sentence which reads (p. 2, lines 22 to 25, inclusive, and p. 3, lines 1 and 2):

The President shall be entitled to obtain such information from, require such reports by, and make such inspection of the premises of, any person, firm, or

corporation as may be necessary or appropriate, in his discretion, to the enforcement or administration of the provisions of this section.

VII. LIABILITY FOR COMPLIANCE WITH PRIORITY RATINGS

Orders placed by the armed services are in most instances not compulsory but the manufacturer who accepts these orders knows that a preference rating will usually be assigned to such orders the moment he accepts them. He therefore knows in accepting such orders that he will in many instances be required to postpone or eliminate deliveries under other orders from civilian customers which are already on his books.

If such manufacturer is sued for damages by one of such other customers for default under such customer's contract, there is some legal doubt whether the manufacturer can plead impossibility of performance since he has accepted the military order with knowledge that it will require such default. It is important to give clear statutory protection to all manufacturers who comply with priority orders.

Such statutory protection will be granted by the bill by the following sentence (p. 3, lines 2 to 6, inclusive):

No person, firm, or corporation shall be held liable for damages or penalties for any default under any contract or order which shall result directly or indirectly from his compliance with any rule, regulation, or order issued under this section.

SUMMARY OF PURPOSES OF THE BILL

Therefore, it appears necessary to enact an amendment to said section 2 (a) to clarify and amplify the priorities authority to take care of the necessities as indicated in the foregoing report. The language of such amendment should adhere to that used in section 2 (a).

The purpose of such amendment is sixfold:

1. To permit the assignment of mandatory priorities to contracts or orders of any foreign government which the President brings within the terms of the lease-lend bill.

2. To permit the assignment of mandatory priorities to any contract or order of a Government agency other than the Army or Navy or of private industry which is of vital importance to the defense program.

3. To make clear that mandatory priorities may be extended to subcontracts and suborders for parts, supplies, and materials which enter directly or indirectly into the fulfillment of the prime contracts which are subject to mandatory priorities.

4. To permit control of the distribution of those products and materials in which shortages appear by reason of the impact of the defense program and to permit the allocation of such products and materials to defense and to the most important civilian needs in preference to less important uses.

5. To permit adequate information to be obtained to operate the priorities system.

6. To protect persons complying with priority orders against liability for damages.

This bill has the unanimous recommendation of the committee.

The following letter from Messrs. William S. Knudsen and Sidney Hillman, respectively Director General and Associate Director General of the Office of Production Management, to the chairman of

the Committee on Naval Affairs of the House of Representatives, recommending this legislation, and advising of the approval of the Secretary of War and the Secretary of the Navy thereof, was referred to this committee for consideration and should be made a part of this report:

APRIL 23, 1941.

The Honorable CARL VINSON,
House of Representatives,
Washington, D. C.

DEAR MR. VINSON: On behalf of the Office of Production Management, there is enclosed herewith the draft of a statutory provision to clarify and amplify the priorities power under the clause in section 2 (a) of Public, 671, Seventy-sixth Congress, third session, together with a memorandum describing the need for such additional legislation.

We understand that you introduced the original bill which was enacted as Public, 671, containing said section 2 (a). Therefore, after consultation with Mr. William W. Dulles, Special Assistant to the Secretary of the Navy, we felt it appropriate to submit the enclosed statutory provision to you.

The sole priorities power at present derives from said section 2 (a), except for special priorities powers vested in particular agencies over the industries which fall within their jurisdiction, such as the Maritime Commission, Power Commission, and Interstate Commerce Commission.

As indicated by the attached memorandum, the priorities power authorized by said section 2 (a) needs amplification and clarification to permit the establishment of an adequate priorities system, and the necessary control of materials in which shortages occur as a result of the impact of the defense program upon our national economy.

The attached memorandum describes the particular points which need amplification and clarification, citing examples of the essential need therefor.

Without such amplification and clarification of said section 2 (a), the Priorities Division of the Office of Production Management cannot adequately deal with the needs of national defense.

The proposed statutory provision has not been drafted in the form of a separate bill, in the belief that it can be appropriately added as an additional provision to a naval or military bill. However, it can, without difficulty, be converted into a separate bill if that appears more appropriate.

The suggested amendment will not result in any direct expenditure of funds and no special appropriation will be required to make it effective.

In view of the serious need for this legislation and the necessity for speed in the defense program, the Office of Production Management urgently recommends expeditious action.

Very truly yours,

WILLIAM S. KNUDSEN,
Director General.
SIDNEY HILLMAN,
Associate Director General.

In compliance with clause 2a of rule XIII of the Rules of the House of Representatives, there is herewith printed in parallel columns (1) the text of provisions of existing laws which would be amended by the various provisions of the bill.

EXISTING LAW

THE BILL

[PUBLIC—NO. 671—76TH CONGRESS]

SECTION 2. (a) That whenever deemed by the President of the United States to be in the best interests of the national defense during the national emergency declared by the President on September 8, 1939, to exist, the Secretary of the Navy is hereby authorized to negotiate contracts for the acquisition, construction, repair, or alteration of complete naval vessels or

That section 2 of the Act approved June 28, 1940 (Public, Numbered 671, Seventy-sixth Congress), as amended, is amended by inserting "(1)" after "Sec. 2 (a)" and by adding at the end of subsection (a) thereof the following:

"(2) Deliveries of material to which priority may be assigned pursuant to paragraph (1) shall include, in addition to deliveries of material under contracts

EXISTING LAW

aircraft, or any portion thereof, including plans, spare parts, and equipment therefor, that have been or may be authorized, and also for machine tools and other similar equipment with or without advertising or competitive bidding upon determination that the price is fair and reasonable, and deliveries of material under all orders placed pursuant to the authority of this section and all other naval contracts or orders and all Army contracts and orders shall, in the discretion of the President, take priority over all deliveries for private account or for export: *Provided*, That the Secretary of the Navy shall report every three months to the Congress the contracts entered into under the authority of this section: *Provided further*, That contracts negotiated pursuant to the provisions of this section shall not be deemed to be contracts for the purchase of such materials, supplies, articles, or equipment as may usually be bought in the open market within the meaning of section 9 of the Act entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes", approved June 30, 1936 (49 Stat. 2036; U. S. C., Supp. V, title 41, Secs. 35-45): *Provided further*, That nothing herein contained shall relieve a bidder or contractor of the obligation to furnish the bonds under the requirements of the Act of August 24, 1935 (49 Stat. 795; 40 U. S. C. 270 (a) to (d)): *Provided further*, That the cost-plus-a-percentage-of-cost system of contracting shall not be used under the authority granted by this subsection to negotiate contracts; but this proviso shall not be construed to prohibit the use of the cost-plus-a-fixed-fee form of contract when such use is deemed necessary by the Secretary of the Navy: *And provided further*, That the fixed fee to be paid the contractor as a result of any contract entered into under the authority of this subsection, or any War Department contract entered into in the form of cost-plus-a-fixed-fee, shall not exceed 7 per centum of the estimated cost of the contract (exclusive of the fee as determined by the Secretary of the Navy or the Secretary of War, as the case may be).

THE BILL

or orders of the Army or Navy, deliveries of material under—

"(A) contracts or orders for the Government of any country whose defense the President deems vital to the defense of the United States under the terms of the Act of March 11, 1941, entitled 'An Act to promote the defense of the United States';

"(B) contracts or orders which the President shall deem necessary or appropriate to promote the defense of the United States; and

"(C) subcontracts or suborders which the President shall deem necessary or appropriate to the fulfillment of any contract or order as specified in this section.

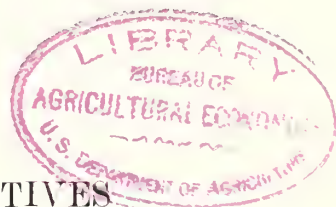
Deliveries under any contract or order specified in this section may be assigned priority over deliveries under any other contract or order. Whenever the President is satisfied that the fulfillment of requirements for the defense of the United States will result in a shortage in the supply of any material for defense or for private account or for export, the President may allocate such material in such manner and to such extent as he shall deem necessary or appropriate in the public interest and to promote the national defense. The President shall be entitled to obtain such information from, require such reports by, and make such inspection of the premises of any person, firm, or corporation as may be necessary or appropriate, in his discretion to the enforcement or administration of the provisions of this section. No person, firm, or corporation shall be held liable for damages or penalties for any default under any contract or order which shall result directly or indirectly from his compliance with any rule, regulation, or order issued under this section. The President may exercise any power, authority, or discretion conferred on him by this section, through such department, agency, or officer of the Government as he may direct and in conformity with any rules and regulations which he may prescribe."

Union Calendar No. 156

77TH CONGRESS
1ST SESSION

H. R. 4534

[Report No. 460]



IN THE HOUSE OF REPRESENTATIVES

APRIL 25, 1941

Mr. VINSON of Georgia introduced the following bill; which was referred to the Committee on Naval Affairs

APRIL 29, 1941

Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

A BILL

To amend the Act approved June 28, 1940, entitled "An Act to expedite the national defense, and for other purposes", in order to extend the power to establish priorities and allocate material.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 2 of the Act approved June 28, 1940 (Public,
4 Numbered 671, Seventy-sixth Congress), as amended, is
5 amended by inserting "(1)" after "SEC. 2. (a)" and by
6 adding at the end of subsection (a) thereof the following:
7 "(2) Deliveries of material to which priority may be
8 assigned pursuant to paragraph (1) shall include, in addition

1 to deliveries of material under contracts or orders of the Army
2 or Navy, deliveries of material under—

3 “(A) contracts or orders for the Government of any
4 country whose defense the President deems vital to the
5 defense of the United States under the terms of the Act
6 of March 11, 1941, entitled ‘An Act to promote the
7 defense of the United States’;

8 “(B) contracts or orders which the President shall
9 deem necessary or appropriate to promote the defense of
10 the United States; and

11 “(C) subcontracts or suborders which the President
12 shall deem necessary or appropriate to the fulfillment of
13 any contract or order as specified in this section.

14 Deliveries under any contract or order specified in this sec-
15 tion may be assigned priority over deliveries under any other
16 contract or order. Whenever the President is satisfied that
17 the fulfillment of requirements for the defense of the United
18 States will result in a shortage in the supply of any material
19 for defense or for private account or for export, the President
20 may allocate such material in such manner and to such
21 extent as he shall deem necessary or appropriate in the public
22 interest and to promote the national defense. The President
23 shall be entitled to obtain such information from, require
24 such reports by, and make such inspection of the premises
25 of, any person, firm, or corporation as may be necessary or

1 appropriate, in his discretion, to the enforcement or admin-
2 istration of the provisions of this section. No person, firm,
3 or corporation shall be held liable for damages or penalties
4 for any default under any contract or order which shall result
5 directly or indirectly from his compliance with any rule,
6 regulation, or order issued under this section. The President
7 may exercise any power, authority, or discretion conferred
8 on him by this section, through such department, agency, or
9 officer of the Government as he may direct and in conformity
10 with any rules and regulations which he may prescribe.”

77TH CONGRESS
1ST SESSION

H. R. 4534

[Report No. 460]

A BILL

To amend the Act approved June 28, 1940, entitled "An Act to expedite the national defense, and for other purposes", in order to extend the power to establish priorities and allocate material.

By Mr. VINSON of Georgia

APRIL 25, 1941

Referred to the Committee on Naval Affairs

APRIL 29, 1941

Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

77TH CONGRESS
1ST SESSION

H. RES. 189



IN THE HOUSE OF REPRESENTATIVES

APRIL 29, 1941

Mr. VINSON of Georgia submitted the following resolution; which was referred to the Committee on Rules

RESOLUTION

1 *Resolved*, That immediately upon the adoption of this
2 resolution it shall be in order to move that the House resolve
3 itself into the Committee of the Whole House on the state
4 of the Union for the consideration of H. R. 4534, a bill to
5 amend the Act approved June 28, 1940, entitled "An Act
6 to expedite the national defense, and for other purposes",
7 in order to extend the power to establish priorities and allo-
8 cate material. That after general debate, which shall be
9 confined to the bill and shall continue not to exceed one
10 hour, to be equally divided and controlled by the chairman
11 and ranking minority member of the Committee on Naval
12 Affairs, the bill shall be read for amendment under the five-

1 minute rule. At the conclusion of the reading of the bill for
 2 amendment the Committee shall rise and report the same to
 3 the House with such amendments as may have been adopted,
 4 and the previous question shall be considered as ordered on
 5 the bill and amendments thereto to final passage without
 6 intervening motion except one motion to recommit.

RESOLUTION

For the consideration of H. R. 4534.

By Mr. VINSON of Georgia

April 29, 1941

Referred to the Committee on Rules



CONSIDERATION OF H. R. 4534

MAY 2, 1941.—Referred to the House Calendar and ordered to be printed

Mr. SABATH, from the Committee on Rules, submitted the following

REPORT

[To accompany H. Res. 189]

The Committee on Rules, having had under consideration House Resolution 189, report the same to the House with the recommendation that the resolution do pass.



1 minute rule. At the conclusion of the reading of the bill for
2 amendment the Committee shall rise and report the same to
3 the House with such amendments as may have been adopted,
4 and the previous question shall be considered as ordered on
5 the bill and amendments thereto to final passage without
6 intervening motion except one motion to recommit.

77TH CONGRESS
1ST Session

H. RES. 189

RESOLUTION

For the consideration of H. R. 4534.

By Mr. VINSON of Georgia

April 29, 1941

Referred to the Committee on Rules



Mr. TABER. Mr. Speaker, about a week ago the Secretary of the Treasury suggested to the Ways and Means Committee that the pressure might be taken off of some of the tax situation if we had a little bit of the spirit of economy. He stated that we might save \$1,000,000,000 if we went at it right. I believe that if we went at it right and cut down the things that could be cut down without a bit of hurt to the people of the United States, but to their everlasting benefit, we could save \$2,000,000,000. I am going to take a little more time in going into this pretty thoroughly in the course of the next day or two, but I think this is an item that should have the prime attention of this Congress. [Applause.]

EXTENSION OF REMARKS

Mr. KEEFE. Mr. Speaker, I ask unanimous consent to extend my own remarks in the Record and to include therein an editorial published under date of Saturday, May 3, in the Sheboygan (Wis.) Press, in reference to the St. Lawrence scaway, entitled "Let the Cat Out of the Bag."

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

CIVILIAN CONSERVATION CORPS

Mr. KEEFE. Mr. Speaker, I ask unanimous consent that I may be permitted to proceed for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. KEEFE. Mr. Speaker, supplementing the remarks just made by the gentleman from New York [Mr. TABER], may I call attention at this time to a matter that recently came to my observation as a member of the Committee on Appropriations? The Civilian Conservation Corps, which we all believe in, came before the committee recently asking for an appropriation based on an enrollment for the fiscal year 1942 of 259,000 junior enrollees. Upon cross-examination of the head of that organization, it was disclosed that by no stretch of the imagination does the Civilian Conservation Corps expect they will be able to enroll more than 200,000 junior enrollees. As a matter of fact, the evidence discloses, to my judgment, that they will be fortunate if they are able to enroll 175,000. There is one item where there can be a cut of at least \$75,000,000 without doing any damage whatsoever to the Civilian Conservation Corps and its activities.

The SPEAKER. The time of the gentleman from Wisconsin has expired.

EXTENSION OF REMARKS

Mr. MARCANTONIO. Mr. Speaker, I ask unanimous consent to extend my remarks in the Appendix, and include an open letter to the Congress signed by 53 prominent Americans.

The SPEAKER. Is there objection?

There was no objection.

Mr. LUDLOW. Mr. Speaker, I ask unanimous consent to extend my remarks and include an address by Harold

M. Graves, Assistant Secretary of the Treasury, in reference to the sale of Government securities.

The SPEAKER. Is there objection?

There was no objection.

LEAVE TO ADDRESS THE HOUSE

Mr. CRAWFORD. Mr. Speaker, I ask unanimous consent that today, after the disposition of the legislative business and other special orders heretofore made, I may address the House for 25 minutes.

The SPEAKER. Is there objection?

There was no objection.

THE AUTOMOTIVE INDUSTRY

Mr. RABAUT. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection?

There was no objection.

Mr. RABAUT. Mr. Speaker, 2 weeks ago it was my privilege to be present when they launched an army tank at the great new Chrysler plant on the outskirts of Detroit, and to the astonishment of the officials of the Army present, a second tank was rolled out for inspection. That tank plowed its way through buildings with unbelievable ease, took telephone poles down in its track, and plowed through a forest that had been left standing there on the original farm property, which was a cow pasture just last November. Yesterday, to the bewilderment of many we learned of the statement presented by Leon Henderson, Administrator of the Office of Price Administration and Civilian Supply, before the House Ways and Means Committee wherein the proposal was made to raise the tax upon automobiles from 3½ percent to 20 percent or more with coverage, mind you, extended to used cars.

Perhaps it would be enlightening to make known the fact that most motorists earn less than \$30 a week but they are already taxed as though they were millionaires.

Secondly, the automobile industry showed its greatest determination at the lowest ebb of the depression.

Thirdly, it was one of the few industries of the country ready to take on the war program.

And last but not least, it is among the foremost in the purchase of farm commodities.

It was Secretary of Commerce Roper who told me during his tenure of office that if we could find another industry that would so take hold of the American people as has the automobile industry, a depression would be unknown in this Nation for the next 50 years. Is it now to be dealt the body blow from the taxing organ of this Congress because this suggestion has been made? Personally, I feel the Congress will be most solicitous and careful not to kill the goose that lays the golden eggs.

May I refer, particularly those of you from agricultural districts, to my remarks in the CONGRESSIONAL RECORD of the first session of the Seventy-sixth Congress, on page 5833, wherein the benefits of the automobile industry to the various sections of the country are enumerated. One-seventh of all the workers in the United States are employed in this industry; over 4,000,000 are employed in

truck transport alone; ribbons of concrete, the great stop-and-go signal system of the Nation, the good roads to market, and countless other innovations are the result of the geniuses and the artisans in the automobile trade.

This is a subject worthy of great study by this distinguished body.

EXTENSION OF REMARKS

Mr. LEWIS. Mr. Speaker, I ask unanimous consent to extend my remarks in the Appendix of the Record by the inclusion of a statement by Mr. R. J. Tip-ton, an eminent engineer, made before the Committee on Appropriations.

The SPEAKER. Is there objection?

There was no objection.

Mr. LAMBERTSON. Mr. Speaker, I ask unanimous consent to extend my own remarks in the Record.

The SPEAKER. Is there objection?

There was no objection.

Mr. SHANLEY. Mr. Speaker, I ask unanimous consent to extend my remarks in the Appendix by including an article by Mr. Simon T. Lake on underwater carriers.

The SPEAKER. Is there objection?

There was no objection.

Mr. SHANLEY. Also, Mr. Speaker, I ask unanimous consent to extend my remarks by including an article about the pan-American nations and idle foreign ships.

The SPEAKER. Is there objection?

There was no objection.

GRANTING OF PRIORITIES

Mr. SABATH. Mr. Speaker, I call up House Resolution 189, which I send to the desk and ask to have read.

The Clerk read as follows:

House Resolution 189

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H. R. 4534, a bill to amend the act approved June 28, 1940, entitled "An act to expedite the national defense, and for other purposes," in order to extend the power to establish priorities and allocate material. That after general debate, which shall be confined to the bill and shall continue not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Naval Affairs, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. SABATH. Mr. Speaker, I yield 30 minutes to the gentleman from Michigan [Mr. MICHENER].

I shall not take more than a few moments. This rule makes in order H. R. 4534, to amend the act approved June 28, 1940, entitled "An act to expedite the national defense, and for other purposes," in order to extend the power to establish priorities and allocate material. It is the so-called priorities bill.

During the last session of the Congress, in 1940, we passed a bill giving priority to Army and Navy material necessities; but, unfortunately, the bill was not broad

enough. Consequently the Committee on Naval Affairs, by unanimous vote, upon the recommendation of the various departments concerned, has reported H. R. 4534, which obviates the deficiencies of existing legislation. This rule that would make H. R. 4534 in order provides for 1 hour of general debate, after which the bill would be taken up under the 5-minute rule.

I am satisfied that notwithstanding this additional power, which is actually needed and reasonable, it does not mean that we are going to do what several gentlemen, day in and day out, claim, namely, enter the war. I have the utmost confidence, I repeat, in the President of the United States, and I believe that he meant what he said in Boston, and what he has repeated many times. I am satisfied that to his very best and thorough ability he is endeavoring to keep the country out of war.

Mr. O'CONNOR. Mr. Speaker, will the gentleman yield?

Mr. SABATH. I am glad to yield to the gentleman.

Mr. O'CONNOR. I fully agree with the gentleman; but I do not want the American people to be permitted to forget the pledges that not only the President of the United States made, but nearly every Member of the Congress made to the American people, namely, that if they were reelected they would not send our boys to Europe.

Mr. SABATH. In view of the fact that the President's statement has been repeated on the floor about 57 times, I think all the people of this Nation, literate and illiterate, are familiar with it.

I repeat, I have the utmost confidence that he meant what he said and that he is going to continue to try to the best of his great ability to prevent our country being drawn into the war.

Naturally, it is our duty to do everything within our power to protect ourselves and to prepare ourselves against the danger that is unmistakably close to our doors. I believe we are doing the right thing and our plain duty in strengthening our existing and preparing new defenses. It is not more than right that we should. The aid that we are giving to Great Britain and others, I maintain, is for our own protection as much as for the protection of Great Britain.

The gentleman from New York stated sometime ago that we have unfairly taken over some ships belonging to the Government of Yugoslavia. Does the gentleman hold that they should have been turned over to Hitler for the purpose of using them against us or against the other democracies?

I am confident that we have done the right thing and within law; that the owners of those vessels will be fully compensated for them; and that under our own law and under international law we have a right to take over those vessels. Surely every well-informed man appreciates the reasonableness of the laws of eminent domain and grim necessity.

I shall not detain the House longer. This bill was unanimously reported by the Committee on Naval Affairs, and I do not believe there is any opposition.

I now yield to the gentleman from Michigan [Mr. MICHENER], and I do not expect to use any more of my time.

Mr. MICHENER. Mr. Speaker, I shall support this rule. It was reported unanimously and the bill was reported unanimously, but the House should not pass such far-reaching legislation without at least knowing why it is being passed and what the bill provides.

In the first place, this bill amends the act of June 28, 1940, which is the present Priority Act. That permits priorities in materials in our own defense in the Army and the Navy. There is a limitation of time in that bill. It expires in 1942. This bill, if passed, will be subject to the same limitation. Therefore, there is no object in discussing an amendment which has been suggested to limit the life of this bill. I would not vote for the bill without this limitation.

The next thing to which I wish to call attention is that this bill is a corollary to the lend-lease bill.

It would not be here if we had not enacted the lend-lease bill. If the obligations assumed in that bill are to be fulfilled arbitrary action of this kind is essential.

Previous to the enactment of the lend-lease bill, our country had embarked upon an extensive national-defense program. The country was for all-out national defense and, in response to that general sentiment, the Congress enacted the necessary legislation. In that legislation was authority to declare and enforce priorities in the pursuit of our own national-defense program. There is today sufficient legislation, so far as priorities are concerned, to cover our Army and Navy programs.

With the advent of H. R. 1776, our country started on a new pattern. We are to be the arsenal for all the so-called democracies in the world, limited only by the discretion of the President. In no instance in American history have such broad, far-reaching, and plenary powers been given to a President over the industry of the country as are found in this bill. This is a venture in an unknown field. No course is charted. There are no mileposts. The President alone is the pilot. I hope this is not a venture in futility. Time alone will tell.

The bill is short, not intricate, and is easily understood. However, I want to read just one sentence from the bill which accentuates just what the President can do with industry if he so elects:

The President shall be entitled to obtain such information from, require such reports by, and make such inspection of the premises of, any person, firm, or corporation as may be necessary or appropriate, in his discretion, to the enforcement or administration of the provisions of this section.

Pretty drastic, is it not?

It then provides that the President may exercise this plenary power through any agency upon which he may decide. It may be a Hopkins, a Perkins, or a Stettinius. Now, we are going a long way in a democracy when we say to the Chief Executive—whoever he may be—that he may require any industry, any farm in this country, to be operated in such manner, on such conditions, and under such

supervision as he may think advisable. When the lend-lease bill was before the House, I called your attention to the fact that it could be written in much shorter language. For instance:

The President of the United States is hereby authorized and directed to do that which to him seems best for the best interests of the national defense of our country, all laws, national and international, to the contrary notwithstanding.

That is in substance what the lend-lease bill does. No one challenges this interpretation, no one did challenge it, no one will challenge it.

Mr. DEWEY. Mr. Speaker, will the gentleman yield for a question?

Mr. MICHENER. I yield.

Mr. DEWEY. Is there any time limit on the duration of the authority here granted? And what is it?

Mr. MICHENER. Yes. I stated in the beginning that this bill amends the act of June 28, 1940. The act of June 28, 1940, is limited. I yield to the chairman of the Committee on Naval Affairs to give us the exact language.

Mr. VINSON of Georgia. Section 12 of the act that is amended reads:

The provisions of all preceding sections of this act shall terminate June 30, 1942, unless the Congress shall otherwise provide.

Mr. MICHENER. That is as clear as it could be. The country is now operating under the lend-lease law as interpreted and directed by the President and those agencies which he has designated in accordance with the law. The policy has been outlined, and this bill simply writes a formula for some of the things the President is now doing under the lend-lease law. In my opinion, it does not increase the broad Presidential powers but, to some extent, defines and, I hope, limits them.

The priorities section of the Office of Production Management is presently directed by Mr. Edward R. Stettinius, Jr. We who have come in contact with Mr. Stettinius and who know of his accomplishments in the past realize the manner of man that he is. I think the Congress and the country have confidence in him. He does not want to attempt to do those things about which there is question as to his legal authority. We are told that under the Presidential direction priorities are today being invoked in connection with some of the lend-lease requirements, and this bill will clarify that situation. The Congress is rightfully wary about bestowing these vast powers on the President, yet if we could only be assured that Mr. Stettinius will be permitted to carry out the power herein granted, so far as priorities are concerned, without let or hindrance on the part of the President or anyone else, then I think we would all feel much easier about this drastic action. I hope this bill can be amended to require Senate confirmation of any successor to Mr. Stettinius.

Mr. RICH. Mr. Speaker, will the gentleman yield for a question?

Mr. MICHENER. I yield.

Mr. RICH. Is this a war measure?

Mr. MICHENER. Well, no. For one, I do not want to get to discussing or arguing the whole war question over

again. This is not the time or the place. My personal view is, as I said when the lend-lease bill was before us, that bill put this country into the war morally. No one will question that. It put this country into war economically. No one will question that. As to whether it put the country into the war officially might be questioned unless one interpreted the lend-lease bill as I did, as giving the President authority to make and carry on undeclared war anywhere in the universe, just so long as he felt that what he was doing was for the best interests of our national defense. He alone was the judge.

Mr. DITTER. Mr. Speaker, will the gentleman yield?

Mr. RICH. Just a minute, if the gentleman please. Will he not yield to permit me to finish my thought?

Mr. MICHENER. I am sorry; I have yielded to the gentleman from Pennsylvania [Mr. DITTER].

Mr. DITTER. Does the gentleman feel that the country shares the opinion the gentleman has just expressed?

Mr. MICHENER. There is a difference of opinion. The majority of the Congress did not accept that view at the time the lend-lease bill was enacted, but everything that has transpired since the enactment of the lend-lease bill carries out the prophesy I made at that time and to which I have just referred. We are going to convoy. We are convoying now in one form or another. We are going to convoy directly or by subterfuge. This is evidently the policy of the administration.

If I were guessing I would say that just the minute the President feels that he has enough votes in the Congress to put over either a convoy resolution or a declaration of war, he will come to Congress with a message suggesting that he is opposed to war and that all the steps he has taken, including the amendment of the neutrality law, the transfer of the destroyers, the lend-lease bill, and so forth, were done in an effort to avoid war. This suggestion will be followed by the statement that conditions have now reached the point where it is evident that the Presidential endeavors have failed and that the Congress must pass upon the question of convoys or war. I do not mean that the question of convoys is coming to Congress before we do convoy. I do not mean that a war resolution is coming to Congress before we are in a shooting war. I do believe that we are not only convoying but that we are going to do everything contemplated in the lend-lease law, regardless of where it takes us, so far as war is concerned, and all this without the affirmative approval of the Congress, unless the President feels assured that he has the votes in the Congress. The recent speeches of Secretaries Hull, Knox, and Stimson, to say nothing about the utterances of Churchill and Halifax, all tend to this end. Of course, the President can keep us out of war if he will, but this will not happen if the President himself and the spokesmen for his administration continue these war sales talks to the American people.

Mr. DITTER. Mr. Speaker, will the gentleman yield further?

Mr. MICHENER. I yield.

Mr. DITTER. As a result of the last observation I can take it then it is the gentleman's opinion that if the President felt the country understood we were at war he would not hesitate to send up a resolution for war, but it is because of his conviction the country does not feel it is at war that he hesitates to send up such resolution.

Mr. MICHENER. Many in the country have relied upon the President's promise that he would not lead us into any foreign war. Every person has a right to his own view, however.

Mr. DITTER. My friend acknowledged that, did he not?

Mr. MICHENER. Yes; certainly. My view is that the American people do not want to get into this war, that the American people, believing they understood what President Roosevelt meant when he said that convoys mean shooting and shooting means war, took him at his word. They do not want to get into this war. They thought the President was like minded. If, however, one listens to the propaganda over the radio day by day and night by night, one must be convinced that the American people are becoming mighty frightened and so jittery they are very apt to go along and accept that which they are told is inevitable under the course now being pursued by the administration.

Mr. DITTER. Mr. Speaker, will the gentleman yield further?

Mr. MICHENER. I yield.

Mr. DITTER. I assume the propaganda to which the gentleman has just referred is for the purpose of arousing that which primarily does not exist—a war hysteria.

Mr. MICHENER. I have made it clear that my view is, the rank and file of the American people do not want to get into this war.

Mr. O'CONNOR. Will the gentleman yield?

Mr. MICHENER. I yield to the gentleman from Montana, who has made a fearless and courageous fight to keep us out of war. There should be more like him.

Mr. O'CONNOR. I called the attention of the House some few days ago to the conclusive argument made by the gentleman who is now addressing the House on the lease-lend bill. I only regret that they all did not hear his splendid and patriotic argument. I am thoroughly convinced that the people of the country did not get the full import of that bill. I am likewise convinced that many Members voted for it with not as full knowledge of its sweeping contents and powers as the gentleman from Michigan [Mr. MICHENER] stated. Let me also call attention to this morning's paper. We find now that Secretary Knox comes out and says that the American people "are committed," if you please, to furnish manpower to Europe. I call the gentleman's attention also to the fact that I made the statement during the time the lend-lease bill was under discussion that when Churchill called for ships he would get them, and that when Churchill called

for men he would get them. I am afraid that statement is coming true.

Mr. MICHENER. Yes; and right there, may I say that I recall well, and those who keep abreast of these things recall, that when Mr. Hopkins went to England as the personal representative of the President he was received by Churchill, who made a great speech. In that speech Churchill said, "We need ships, we need munitions, now. We will not need any men in 1941." When Mr. Churchill asks for these men after 1941, we will be reminded that we have never had assurances from any official source in Europe, particularly England, that they will not in the end ask for men. The men will follow as lend-lease followed cash-and-carry.

Mr. CASEY of Massachusetts. Will the gentleman yield?

Mr. MICHENER. I yield to the gentleman from Massachusetts.

Mr. CASEY of Massachusetts. The gentleman has pointed out some alleged inconsistencies upon the part of the President in what he said and in what he has done. As I understand the gentleman, he says that with the full knowledge that the lease-lend bill was economic warfare, he voted for it. Is that correct?

Mr. MICHENER. I did not vote for the lend-lease bill.

Mr. CASEY of Massachusetts. The gentleman did not vote for the lease-lend bill?

Mr. MICHENER. I did not. I did everything I could to prevent the passage of the lease-lend bill, because I was thoroughly convinced in my own mind that those things were going to happen which are today happening.

Mr. DITTER. Will the gentleman yield?

Mr. MICHENER. I yield to the gentleman from Pennsylvania.

Mr. DITTER. The gentleman, of course, knows that the proponents of the lease-lend bill very definitely assured the House and attempted to assure the country that it was a peace measure?

Mr. MICHENER. There is no doubt about that. Those gentlemen either did not study the bill carefully or they were too anxious to go along with the administration in anything the administration asked for.

Mr. DWORSHAK. Will the gentleman yield?

Mr. MICHENER. I yield to the gentleman from Idaho.

Mr. DWORSHAK. The gentleman has just expressed complete confidence in the ability of Mr. Stettinius to act as Director of the Priorities Section. Has the gentleman any assurance that Harry Hopkins will not soon assume that responsible position?

Mr. MICHENER. No, No, No. That is the trouble. I have not the confidence I ought to have in the frankness of some of our public officials today, and, as I have oftentimes said, honesty, forthrightness, frankness, and candor are still virtues, even in those in high places.

Mr. RICH. Will the gentleman yield?

Mr. MICHENER. I yield to the gentleman from Pennsylvania.

Mr. RICH. This bill, H. R. 4534, grants extensive powers to the President of the

United States. Have any similar powers ever been given to any President of the United States at any time in any war?

Mr. MICHENER. Similar powers, but none so all inclusive. This bill goes further than any previous law. I think I speak by the card when I say that this bill gives more authority over industry than was ever given a Chief Executive of the United States before. The industrial mobilization plan, which has been in course of preparation since the last war but which has not been advocated openly, was contemplated and worked out largely by the Army and Navy, but it has never been presented to Congress. I think the gentleman from New York [Mr. WADSWORTH] is very familiar with that fact. You will find that these powers were contemplated in that plan.

Mr. MARCANTONIO. Will the gentleman yield?

Mr. MICHENER. I yield to the gentleman from New York.

Mr. MARCANTONIO. I am certain that no one who favored or opposed the lend-lease bill ever contended that the lend-lease bill gave the President or anyone else the power to commit the manpower of this country to Great Britain; yet last night the Secretary of the Navy, Mr. Knox, stated that this country stands committed to Great Britain as far as the manpower of the United States is concerned. In that connection, I think it is high time that the President stop these warlike statements which are not compatible with responsible government on the part of the Secretary of the Navy and on the part of "Light Horse Harry" Stimson.

Mr. MICHENER. A lot of water has gone under the bridge since the lend-lease bill was enacted. When that bill was enacted the die was cast, and I am just wondering how our good colleagues who stood on the floor here and assured the country, assured the Congress, and assured those who would vote for that bill that that bill would not lead in the direction of war, can justify their position now.

Mr. O'CONNOR. I would like to have the gentleman or any Member of the House give us information as to who or what officer of the Government or of the people of the country, authorized to speak for Government or the country, ever committed this Government or any part of it to furnish manpower to conduct this war in Europe in line with what Mr. Knox said last night. I would like to find out who made such commitment on the part of the American people to send our boys to be slaughtered over in Europe.

Mr. MICHENER. I know of no such commitment, but my memory goes back to the debate on the conscription bill. That was called a training bill. Much stress was laid upon the fact that the boys were to be drafted for 1 year's military training. The health of the boys, the discipline, and the cooperation were spectacularized. They were to be the strong, robust citizens of the future. But that bill provided that they were to serve not less than 12 consecutive months and as much longer as the Congress might feel they were needed.

I was one of those who wanted to eliminate from that bill the word "service" and make it a training bill. I conferred with the author of the bill and others. Under a training bill you could not send these men beyond the limits of the United States. Under this service bill a man is first inducted, then he is infiltrated into one of the Regular Army units. He is in service. He goes where the Commander in Chief of the Army has the right to send him. No one will contend that the Commander in Chief of the Army and the Navy does not have the right to send our Navy anywhere on the seven seas to protect American interests; at least, it has always been that way until the neutrality law.

Mr. VAN ZANDT. Mr. Speaker, will the gentleman yield?

Mr. MICHENER. I yield to the gentleman from Pennsylvania.

Mr. VAN ZANDT. The gentleman knows, of course, that under the Selective Service Act the young man receives 12 months' training and 4 years' service, and then is in the Reserve for 5 more years.

Mr. MICHENER. Yes, there is no question about that, but these boys now in the service are not going to be home in a year. They are Reserves after the year, under the law, but they are going to be gone more than a year. The Congress is going to require them to stay more than a year. The National Guard is going to stay more than a year. If present indications mean anything, we will possibly have a war of from 4 to 10 years' duration.

Mr. JENSEN. Mr. Speaker, will the gentleman yield?

Mr. MICHENER. I yield to the gentleman from Iowa.

Mr. JENSEN. Is it not a fact that when the farmer has hay down he does not fire his help, and is it not also a fact that the warmongers of this country have a lot of hay down right now?

Mr. MICHENER. The gentleman is right as usual. I am not using the term "warmongers." I am trying to talk in a temperate manner. The time for emotionalism is gone. We are now confronted with the gray dawn, and it is a cold dawn, of the morning after a few weeks of the lend-lease bill.

When we passed the lend-lease bill we determined upon a course that will be very difficult to abandon. In other words, the old ship of state is going up this 9-foot cement highway. It is straight. The President is at the steering wheel. Secretaries Stimson, Knox, and Hull are in the car with him. We can see only the top of the hill. We cannot see what is beyond. Is the road too narrow, so that ship of state cannot be turned around? I am sure the President has no reverse on the machine. If it cannot be turned around, where are we landing? That is what is bothering the American people who accepted the lend-lease bill as a peace measure.

Mr. MAGNUSON. Mr. Speaker, will the gentleman yield?

Mr. MICHENER. I yield to the gentleman from Washington.

Mr. MAGNUSON. I may say to the gentleman that I am somewhat in a

quandary in my own mind about some of the things of which the gentleman speaks, but I want to know if the gentleman is clear on this one point, and I think it will help clear up a lot of things. Does the gentleman believe that it was morally right for the European war machine to invade Norway, for instance?

Mr. MICHENER. No. I do not care to discuss the European situation further, other than to say that I am unalterably opposed to Hitlerism and everything it stands for. I have no use for any of the things this madman Hitler has been doing. I said when the matter was up for debate, and I have not changed my mind, that they have been having these fights over there for 2,000 years. Their conditions are different from ours. Whether this country should embark upon a policy of making the entire world better and making every country in the world conform to our ideas as to the type of government it should have is one thing. But those things are all back of us. It is now a matter of national defense. We are where we are. We confront a condition and not a theory. Idealism must yield to stern reality.

Mr. MAGNUSON. What, then, is our duty, if we have any?

Mr. MICHENER. There is a difference of opinion. If I were to take the opinion of the majority of the American people and answer the gentlemen, it would be this: That we should keep out of any foreign war so far as sending our soldiers beyond the limits of the Western Hemisphere is concerned.

Mr. O'BRIEN of Michigan. Mr. Speaker, will the gentleman yield?

Mr. MICHENER. I must yield to my friend from Detroit.

Mr. O'BRIEN of Michigan. I observe that the gentleman and also the Republican minority leader voted for the conference report on the lend-lease bill, now the Lend-Lease Act. I wonder if the gentleman has changed his position in regard to the Lend-Lease Act.

Mr. MICHENER. No; I have not changed my position at all. I voted for the Senate amendments. When that bill came back from the Senate, the conference report was either going to be accepted or we were going to have the bill in the form that it left the House. Along with the gentleman I voted against the bill in the House. The Senate amendments made the bill less dangerous for the American people. I voted against the lend-lease bill but I voted for the Senate amendments. I am sorry that the gentleman did not understand the parliamentary situation and do likewise. I am sorry that he acted under a misapprehension of the facts. I am sorry that he opposed those Senate amendments which his constituents wanted in the bill if the bill was to become a law.

Mr. O'BRIEN of Michigan. Will the gentleman answer me this categorically: Did not the gentleman vote for the lend-lease bill as amended in the Senate?

Mr. MICHENER. No. I voted for the Senate amendments to the lend-lease bill. The gentleman can fuss around all he wants to about technicalities, but if he will study the parliamentary situation he will find that everything I have

said as far as that matter is concerned is justified by the facts. [Applause.]

Mr. SABATH. Mr. Speaker, there are few men in the House for whom I have as great respect or in whom I have such great confidence as I have for the gentleman from Michigan [Mr. MICHENER], a valuable member of the Committee on Rules. Usually the gentleman does not make violent statements or statements that he cannot justify, but a little while ago he stated positively that if the President had enough votes or believed he had enough votes in the House he would immediately ask for authority to convoy, and, possibly, ask for a declaration of war. I am satisfied the gentleman has no authority and no evidence on which to base any such statement. Personally, I am of the opinion that if the President should make any recommendations he would have, as he has had before, sufficient votes to effect any of his recommendations. He has had this support in the past, and he will continue to have it.

Not only this, but I believe there are only a handful on this side of the House who do not agree with his policy; and, moreover, I believe that a majority of the Republicans will go along with him.

I know that the President desires to keep his promises and pledges to the American people, and no publicist or propagandist will sway him from his high purpose to keep us out of war.

I repeat it as my honest conviction that what we are doing now and what we have been doing has been with the object of keeping us out of war and giving Great Britain all possible aid, so that she may cope with the situation brought about by this madman, as the gentleman from Michigan so aptly identified him, and prevent his declared aims of only a few weeks ago to control the world. We know what Hitler is doing in South America. We know what he and his agents are doing in our own country by way of trying to undermine the patriotic views and beliefs of the American people and inject poison into and create prejudice in our national life. We must be on our guard. This is our duty. Any aid that we may give Great Britain and others is really in the interest of our own country.

Mr. Speaker, personally I feel that our country is indeed fortunate that President Roosevelt was persuaded to stand for reelection and was reelected. Had Mr. Willkie been elected, judging from his preelection and later statements, I am satisfied that our country now would be in the war. It is only due to the strong determination on the part of President Roosevelt to keep us out of war that the influence of those who realized more than others the danger to our institutions has not prevailed in actually embroiling us in the conflict. I know that the President is against convoying and is against war; but he does feel that the aid we are sending to Great Britain and China should not find a resting place at the bottom of the seas.

It is unfortunate that there are in this country many people with good eyesight and yet they fail to see what is transpiring throughout the world. They refuse to take notice that the same tactics

employed by Hitler in Austria, Czechoslovakia, Danzig, Poland, Norway, the Low Countries, even in France and England, and lately in Yugoslavia, are being used in this country. In this country, also, many well-meaning men are being used for the self-same purpose and to the same end as have the so-called leaders in the countries which I have named. If these honest and well-meaning men in the United States would heed the import of the last Hitler speech, in which he proclaimed unequivocally that he can positively defeat the world, meaning thereby that he intends to control the world, and if he succeeded in defeating Great Britain, the full force of realization should come to them that we will be the only democratic free nation left to oppose his lust plan to control the world. Consequently, I feel, as I have stated before, that we must of necessity do anything and everything to aid Great Britain. On the other hand, there are many well-meaning persons—and I do not mean bankers—who, in their earnest desire to help the cause of Great Britain, feel that we should declare war. In this connection I cannot help reading into the RECORD a letter which I just received today from a very loyal and patriotic lady in Chicago, Mrs. Anita McCormick Blaine, which letter I strongly urge persons with pacifist leanings to read. It says:

MAY 5, 1941.

MY DEAR MR. SABATH: On the question of the relation of the United States to the war now in the world I have been feeling the impact of opinions expressed in our country so variously from the extreme points of the isolationists to the recently formed Committee to Fight for Freedom. I feel thankful that each can freely express his thought with no let or hindrance.

I have not seen clearly what our ultimate course should be. The all-aid to Britain has been so sure as to be almost satisfying.

I feel horror in the facts of war. I feel greater horror that war can still be the process for decisions between men.

Out of the welter of facts and of thoughts there now comes to me clearly the conviction that the United States should now declare war against what is being done and attempted by the forces of aggression in the world.

This to array the United States in the struggle on the side where the United States belongs; and to add the full force of the United States to help those free peoples who are now holding the line of freedom.

There are two fundamental principles at issue today. One is freedom; or prevention of the domination of men by men. The other is truth; or the prevention of the triumph of falsehood.

These two principles constitute the foundation on which human society can be built. Their loss would undermine the possibility of the continuation and construction of the human society we have seen and worked for.

In the efforts of the aggressors many units of free society have been undermined. They are proceeding to carry on their process as far as possible on the earth.

We are the heirs of these qualities: Initiative, independence, determination, courage. Our institutions are the outgrowth of these qualities.

We are the heirs of these objectives: Freedom for all; opportunity for all; education for all; protection for all.

These qualities and these objectives are being attacked.

It is not the land we live on; it is the life we live on it that matters. This life and the

similar life of others is being attacked. We are being attacked.

We are an able people. We can accomplish great things. When we put our hands to a plow we do not turn back. We should now take our full responsibility.

For the instantaneous, beneficial effect for the world, in this course, I would rather risk the present effects of our former delays than the future effect of longer waiting for our complete action.

It has become clear to me that we should wait no longer but should declare war at once against those countries who have followed their rulers in the subjugation of free countries by force; and against those rulers who have betrayed the world by their falsehoods.

And that it should be stated that it is against the extension of these practices that we are declaring war.

And that it should be understood with the other democracies that in the arrangements after the war the United States has a part.

I put this conviction which has come to me before everyone freely for whatever it may mean to each one and for such action in our Nation, for our Nation, and for the world as may be the judgment of the majority of our people.

In the high purpose of defending freedom and truth on this earth, and in the faith that light will be given for the steps to take, we should now declare war on those who are attacking our principles and let come what must.

In the wealth of our heritage of principle may our contribution in this generation be worthy of our great past.

I am faithfully yours,

ANITA MCCORMICK BLAINE.

HON. ADOLPH J. SABATH,
The House of Representatives,
Washington, D. C.

Mr. Speaker, I feel that Mrs. Blaine has stated the case against the aggressor nations; but I do not go so far as she does in advocating a declaration of war; nonetheless we should, I think, at this time render all-out aid to Great Britain.

THE SPEAKER. The question is on agreeing to the resolution.

The resolution was agreed to.

Mr. VINSON of Georgia. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 4534) to amend the act approved June 28, 1940, entitled "An act to expedite the national defense, and for other purposes," in order to extend the power to establish priorities and allocate material.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill, H. R. 4534, with Mr. THOM in the chair.

The Clerk read the title of the bill.

Mr. VINSON of Georgia. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

THE CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. VINSON of Georgia. Mr. Chairman, I yield myself 15 minutes.

Mr. Chairman, I want to express my deep appreciation to the distinguished gentleman from Michigan [Mr. MICHENER] for the explanation that he made in his time of the objective and purpose of the bill.

This bill is here at the request of Mr. Knudsen, Mr. Hillman, and Mr. Stettinius, and also at the request of the Navy Department. I shall, in the time I occupy, try to explain the bill so that every one of you may thoroughly understand it.

I am frank to admit that this is a very important bill, very far reaching, and under the hands and jurisdiction of a board that was not of the high type and character of the Priority Board, could cause industry a great deal of trouble in this country, but, fortunately, the President has selected, in my judgment, one of the most outstanding men in America, Mr. Stettinius, to head this Board, and I may say that there might have been some hesitancy on the part of the committee if this Board had not been headed by such a distinguished man as Mr. Stettinius.

In order to avoid such a situation, a system of priorities has become necessary to assist in the production and acquisition of defense material for the armed forces, and to assure that the defense program was dovetailed into the problem of civilian economy. Fundamentally, a priorities system is simply a method of putting first things first—a technique for making sure that the finished weapon and the many parts thereof are produced promptly, on schedule, and without delay. The Seventy-sixth Congress, therefore, in section 2 (a) of the act approved June 28, 1940, Public, No. 671, granted to the President mandatory power to assign priorities to Army and Navy contracts over deliveries under contracts for private account or export.

That bill is known as the speed-up bill, reported from the Naval Affairs Committee, and that section 2 provides in part:

All naval contracts or orders and all Army contracts or orders shall, in the discretion of the President, take priority over all deliveries for private accounts or for export.

That is the section of the bill to which we are adding these additional provisions set forth in H. R. 4534.

On January 7 of this year the President by Executive Order No. 8629 created the Office of Production Management and delegated thereto his authority under Public, No. 671, of the Seventy-sixth Congress to establish these priorities. In the same Executive order he provided for the establishment of a Division of Priorities, in charge of a director. Since that time the Division of Priorities, under its Director, Mr. E. R. Stettinius, Jr., and working in close collaboration with the Army and Navy Munitions Board, has been administering a priorities system for the prompt delivery of defense material and other material important to the defense program.

Gentlemen will bear in mind that from January 7 down to date this Board has been trying to do by Executive orders and regulate the priorities by Executive order when it is far preferable in this country to do things by law instead of by Executive order. Therefore we are coming in here and by statute clothing the O. P. M. with the authority the Priority Board desires to have to administer the priorities. I hope that it is possible that this House

will enact statutory provisions wherever it can possibly do so in lieu of Executive order.

The Executive order delegating to O. P. M. the authority to establish mandatory priorities sets forth in considerable detail the duties of that office in respect to the priorities system. But it is important for us to note, however, that already the urgent need is felt for clear and positive statutory provisions to enable O. P. M. to adequately fulfill its important contribution to the defense program. The necessary administrative machinery cannot be left to Executive order alone.

The purpose of this bill is to amend section 2 (a) so as to clothe the Office of Production Management, and particularly the Priorities Division thereof, with the needed statutory authority.

As previously indicated, the only mandatory power for the establishment of contract priorities is derived from section 2 (a) and that power extends only to Army and Navy contracts.

As you are all well aware, the supply of defense materials to Great Britain and other foreign countries is a matter of national policy. The contracts for these materials are a part of our defense program. Yet they are clearly not covered by existing mandatory priority provisions. Heretofore priority, or preference ratings, as they are often called, for this class of contracts have of necessity been issued merely upon a basis of voluntary cooperation on the part of the manufacturer. Such a basis is admittedly inadequate and subparagraph (A) on page 2 of the bill will put the contracts of any country whose defense the President deems vital to the defense of the United States under the terms of the Lease Lend Act upon the same footing as Army and Navy contracts.

Let us see what subsections (A) and (B) do:

(A) Contracts or orders for the government of any country whose defense the President deems vital to the defense of the United States under the terms of the act of March 11, 1941, entitled "An act to promote the defense of the United States."

(B) Contracts or orders which the President shall deem necessary or appropriate to promote the defense of the United States.

So, if it had not been for the lease-lend bill, had it not been for that policy that Congress has adopted, it would not be necessary for this aid to be inserted in the bill. That is merely carrying out the mandate of the American people expressed through Congress by the enactment of the lease-lend bill.

Next, there are the contracts vital to the defense program which are placed by Government agencies other than the War and Navy Departments, such as the Coast Guard, Geodetic Survey, Maritime Commission, Panama Canal, and so forth. Heretofore, in order to prevent many such vital contracts being postponed to the entire military and naval program it has been necessary to again seek voluntary consent to the preference ratings.

Likewise, there is a large class of domestic contracts which, though essential to national defense, are neither military nor naval, nor even Government; for

example, contracts for equipment for the expansion of production facilities of critical materials such as aluminum, magnesium, tin, and so forth; or for additional power-producing facilities. That these should be left to priorities established only upon a voluntary basis is most certainly a dangerous procedure.

Still another class of contracts, priorities for which can only be established on a voluntary basis, are those for civilian needs; as, for example, a contract for replacement machinery in the water system of a large city which is an important defense center. Such a contract could not be said to be connected with defense in any sense, and yet a delay in obtaining such machinery from already overloaded industries, because of lack of authority to establish a priority, might be very disastrous.

Further, it may be of the utmost importance for the protection of our Western Hemisphere defense to see to it that contracts for vital requirements of our Latin American neighbors are filled in instances of special importance.

It is impossible to predict in advance the exact classes of contracts which it may be essential to fulfill. But we do know that as a result of the impact of the defense program, it may be difficult or impossible to fulfill any particular contract without a preference rating.

At the present time none of the foregoing classes of important contracts can be given preference ratings which are effective, except insofar as the manufacturer is willing to comply. It is necessary that this situation be remedied by giving authority to establish priorities for any contract, when it is found necessary or appropriate to promote our defense. Subparagraph (B) on page 2 of the bill will accomplish this purpose.

In addition to the objectionable features in this voluntary status of priorities, which I have just pointed out, there is another angle to these voluntary priorities which, in all fairness, should be corrected. The manufacturer who complies with a voluntary priority rating assigned to one of these other defense contracts, may find himself with a damage suit on his hands. Many private customers may not be willing to accept postponement of deliveries under contracts which were placed with the manufacturer before the rated contract. If the manufacturer can obtain the consent of the private customer to having deliveries put off, all well and good—but there is no assurance that he can. And, furthermore, much valuable time may be lost while the manufacturer is appealing to the patriotism of his private customers.

Every manufacturer who takes a Government contract and accepts voluntarily a preference rating on it may be putting his head on the chopping block. He cannot be sure, for the ax may not fall until 6 years hence, at the expiration of the period of the statute of limitations. It becomes apparent, therefore, that the present situation, in which reliance is now placed on the voluntary preference ratings, must be corrected without delay. Correction is offered in this bill, in subparagraphs (A) and (B), which would grant authority to establish mandatory

priorities with respect to all of these other contracts, so important to the defense program.

Subparagraph (C) of the bill has a dual purpose regarding subcontracts or suborders. First of all, it will clarify section 2 (a). That section authorizes priority ratings on contracts of the armed services. It does not make clear that it covers any but the prime contract for naval and military items. It appears obvious that similar importance attaches to deliveries of the great variety of materials, which enter into the manufacture of those furnished articles and which must be acquired through the medium of subcontracts or suborders. That authority should be made clear by statute.

Further, this subparagraph is required to authorize the establishment of priorities with respect to the subcontracts or suborders which are necessary to all the other important defense prime contracts covered by section 2 (a) and by this bill. In short, establishing priorities as to prime contracts, without following this up with priorities as to the subcontracts necessary to their fulfillment, would be completely ineffective. We would be attempting to prosecute the defense program by half-measures.

In order to establish a complete, workable priorities system, another step is necessary. Section 2 (a) permits contracts of the Army or Navy to be placed ahead of contracts for private account or for export. Subparagraphs (A) and (B) of this bill would authorize the same priorities on contracts for foreign countries whose defense is deemed vital, and on all other contracts when necessary or appropriate to the promotion of the defense program. But section 2 (a) does not permit priorities to put one Government contract ahead of another. We must provide for fitting together the three general classes of priorities, so that between them it is also possible to put first things first. This will be accomplished by the sentence set forth in lines 14 to 16 on page 2 of the bill.

Coming to the next sentence of the bill, a priorities system, in its broadest aspects, must contain safeguards against acute shortages of essential materials arising. An effective safeguard will provide for taking steps to conserve the supply of such materials before the shortages become acute.

Under the broadest interpretation of section 2 (a) the best that can be done now is to exercise industry-wide control over supplies of materials and products in which acute shortages have occurred. That is not sufficient.

As the set-up is today the Priority Board can only deal with it after this shortage has occurred. Therefore in this bill, by making surveys of the industry and making it mandatory and obligatory on the part of the industry, the Priority Board can be apprised of the shortage in any material, such as aluminum, tin, zinc, copper, and so forth, and can therefore allocate them throughout the industry.

Furthermore, the mere mention of an acute shortage implies that during a national emergency civilian needs must

suffer at the expense of defense needs. But this does not mean that civilian needs are to be disregarded. It is very important, therefore, that authority exist for allocating from available supplies, first, to fill vital defense requirements, and secondly, to civilian needs in the order of their importance.

As I have said before, we must assure that the defense program is geared into civilian economy, so that their various needs receive the consideration which is due them, and so that items of private luxury are not allowed to get out of hand to the detriment of our national security and well-being.

The sentence beginning on line 16 and ending on line 22, page 2 of the bill, if enacted into law, will furnish this important contribution to our national-defense structure.

Intelligent and effective operation of this complete priorities system demands full information of such matters as supplies and requirements of materials, productive capacities, inventories, and uses. This information can be obtained only from industry.

It is idle to say that full information can be had on a voluntary basis. Experience has taught the Priorities Board that a supply of information, necessary to the administration of statutes, must be mandatory. So the next sentence of the bill, beginning on line 23, has been included. It will give a statutory right to get the information needed to operate the priorities system.

I have heretofore explained the dangers inherent to manufacturers in the acceptance of voluntary preference ratings on Government contracts. In all fairness to them there is also need for protection with respect to mandatory ratings. In this situation the manufacturer knows when he accepts a Government order that he may be required to postpone deliveries under orders from private customers which he has already negotiated, or he may even have to abrogate the private contract.

There is some legal doubt whether, under such circumstances, he could, in certain jurisdictions, plead impossibility of performance as an answer to suit on the private contract. It might well be argued that he accepted his Government contract, well knowing that it involved a default on his private contracts, and that he, not the Government, caused the default.

To save harmless the manufacturer, by giving him clear statutory protection, is the purpose of the sentence beginning on line 2 of page 3.

The last provision of the bill will authorize the President to delegate his authority thereunder to the appropriate department or agency for its administration.

It is the committee's contention that H. R. 4534 should be enacted into law, in order that clear statutory authority will exist to deal adequately with all the complex problems of preparing an all-out defense for this country of living up to our policy of serving as the arsenal for democracy, and of doing all this with intelligent consideration for civilian economy.

Mr. Chairman, I think that covers fully all phases of the bill. If there are any questions that any member of the committee desires to ask, I should be glad to endeavor to answer them.

Mrs. BOLTON. Mr. Chairman, will the gentleman yield?

Mr. VINSON of Georgia. Yes.

Mrs. BOLTON. If I understood the gentleman correctly, he said that under the terms of the bill it is possible that real harm might be done in this respect.

Mr. VINSON of Georgia. I am frank to say this bill is far-reaching, because, as pointed out by the gentleman from Michigan [Mr. MICHENER] under the administration of someone who is reckless a great deal of harm could be done. We must rely upon proper administration of this by the proper officials. As long as we have Mr. Stettinius at the head of it I am willing to grant to him this far-reaching power.

Mrs. BOLTON. What certainty have we that he will remain at the head of it?

Mr. VINSON of Georgia. I am hoping that the President is so impressed with the great work he is doing that he would hesitate to remove him. Of course, we have no guaranty that Mr. Stettinius is going to be there.

Mrs. BOLTON. The committee, then, would expect us to back a man—

Mr. VINSON of Georgia. A man like Mr. Stettinius.

Mrs. BOLTON. And make a law on that principle when we pass a bill here in the House?

Mr. VINSON of Georgia. Every bill is based upon that. As far as the Congress is concerned, a Congress with bad men in it could almost wreck the country.

Mrs. BOLTON. Perhaps it is.

Mr. VINSON of Georgia. So it is with reference to every board where human ingenuity is involved. Of course, you have to rely upon the men who administer it. That is true of the courts. You could ruin the country with bad men as judges.

Mrs. BOLTON. But we never have passed a bill on that principle.

Mr. VINSON of Georgia. We are not passing this bill entirely on that principle. The main principle of this bill is to organize industry and coordinate it in its proper part to the national-defense program.

Mrs. BOLTON. And it is most necessary?

Mr. VINSON of Georgia. Yes. I think we have to trust somebody. We are fortunate in having a board of this type and to be able to place the administration of this bill in the hands of such a board.

Mrs. BOLTON. Though we have no assurance that it will stay there.

Mr. VINSON of Georgia. Not a bit, any more than we have that people will send you and me back and not send somebody who might wreck what we are trying to do.

Mrs. BOLTON. I thank the gentleman.

Mr. DEWEY. Mr. Chairman, will the gentleman yield?

Mr. VINSON of Georgia. Yes; I yield.

Mr. DEWEY. May I ask the gentleman if the advice and consent of the Senate is required in the appointment of the

coordinator or chairman who is to wield these powers?

Mr. VINSON of Georgia. No; it is not.

Mr. DEWEY. Would it be advisable, as we are doubtful as to who will be there in perpetuity?

Mr. VINSON of Georgia. Of course, it is not in perpetuity. This act is only for 2 years. This act expires on June 30, 1942.

Mr. DEWEY. But during that period a great deal of damage might be done.

Mr. VINSON of Georgia. But you see the bill is merely amending section 2 of the act which provides that "when-ever the President of the United States finds it to be in the interest of national defense," and so forth, he may authorize to negotiate contracts, and so forth. In that act we conferred upon the President priority over domestic account and exports. Then the President on January 7 created a Priority Board in the O. P. M. We are merely backing up that Board that the President has created. We are not creating any new board at all by this act. We are merely adding some additional priorities in the act that I have referred to. But, as I pointed out, the President did establish priorities by Executive order. Now, we are coming along and trying to clothe by statute the same authority in that Priority Board.

Mr. TREADWAY. Mr. Chairman, will the gentleman yield?

Mr. VINSON of Georgia. I yield.

Mr. TREADWAY. One thought occurs to me in listening to the very excellent description which the gentleman has given of the measure. I understood him to say that the contractor was practically putting his head on the chopping block.

Mr. VINSON of Georgia. Yes. Now, this is very important.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. VINSON of Georgia. I yield myself 5 additional minutes, Mr. Chairman.

Suppose a contractor today has a contract from you and at the same time has a Government contract, and the Government, through its Priority Board, says to him, "You must fill our Government contract." Therefore the contractor has obligated himself to deliver your goods on a certain date. You might say to him, "Why, you did not perform your contract and therefore I have suffered damages."

By making it mandatory and by passing a law dealing with that we relieve the manufacturer of that uncertainty and of that liability.

Mr. TREADWAY. In other words, are you not taking his head off of the chopping block by relieving him of his liability under his contract?

Mr. VINSON of Georgia. But when he follows the voluntary system today he is putting his head on the chopping block.

Mr. TREADWAY. Then by making it mandatory to fulfill the Government contract you are relieving him?

Mr. VINSON of Georgia. We relieve him of any legal obligation because the Government by this law has made it impossible for him to fill his contract for you.

Mr. TREADWAY. One more idea: Suppose there is a marked difference in

the price at which the contractor is offering goods to the private individual and the price under the Government contract, he would then lose, would he not?

Mr. VINSON of Georgia. Well, that is not involved in this question.

Mr. TREADWAY. I think the explanation the gentleman has given of the chopping block is that the contractor is relieved?

Mr. VINSON of Georgia. Why, certainly. This bill is in the interest of every contractor who is trying to do what the Priority Board wants done.

Mr. COLE of New York. On that same subject, the very fact that the contractor may be relieved from any damages on waiver of his liability contemplates that somebody must have suffered some damage some place because of the exercise of this priority.

Mr. VINSON of Georgia. That is right.

Mr. COLE of New York. Why should we think this law is necessary in the interest of national defense? Why should we expect any private businessman who may have entered into a contract which was affected by some priority order and through that order he suffered a damage, why should we expect a private concern, firm, corporation, or establishment to bear the entire burden of the damage?

Mr. VINSON of Georgia. On the principle that everything must stand aside for the national-defense program. The individual must make sacrifices, everybody must make sacrifices.

Mr. COLE of New York. Has any consideration at all been given to the question of the Government's bearing the expense of any damage?

Mr. VINSON of Georgia. No, not at all. We would not be justified in doing that, because then nobody would have made any sacrifice.

Mr. COLE of New York. If damage has resulted from an order issued in the interest of national defense, it would seem to me that the Nation itself should bear the damage.

Mr. VINSON of Georgia. I do not agree with the gentleman at all. I feel that everything must give way for the national defense, and if the goods of a private customer cannot be delivered because priority must be given to the national defense, then it is just one of those things where the rights of the Government must come ahead of those of the individual.

Mr. HALLECK. At any rate it is definite that there is no contemplation of reimbursement.

Mr. VINSON of Georgia. Not a bit.

Mr. HALLECK. Mr. Chairman, will the gentleman yield?

Mr. VINSON of Georgia. I yield.

Mr. HALLECK. If performance of a contract is excused by passage of this legislation, does not that involve the taking of a valuable right from an individual even as the taking of property for an Army camp involves the taking of a valuable property right?

Mr. VINSON of Georgia. That question of whether he had been deprived of some right might arise, but one of the purposes is for industry to understand that if they take a Government contract

and have a private contract, and if they must postpone that private contract, the private individual has not any grounds for bringing suit against the manufacturer because the Government has stepped in and made it impossible for him to fulfill his contract.

[Here the gavel fell.]

Mr. VINSON of Georgia. Mr. Chairman, how much more time have I?

The CHAIRMAN. The gentleman from Georgia has consumed 30 minutes.

Mr. VINSON of Georgia. Mr. Chairman, will the gentleman from Minnesota yield me 2 minutes?

Mr. MAAS. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia.

Mr. HALLECK. Does not the gentleman think that if under the provisions of this legislation we take a valuable right from an individual, even though it is for the purpose of national defense, we ought to follow the practice that has been uniformly established, as I understand it, of compensating the individual who has been adversely affected?

Mr. VINSON of Georgia. Let me explain it this way: It has all been done voluntarily so far. If a manufacturer gets two contracts, one from the Government and one from a private contractor, and the Priorities Board says to him that it is necessary for him to get out the Government work first, he might not be able to fulfill his contract with the private individual. We are removing the voluntary feature and making it obligatory, mandatory on the manufacturer to fulfill, if the Priorities Board thinks it should be filled first, the Government contract before he touches the private contract. Under certain phases, as the gentleman suggests, I can see where a private individual might possibly bring suit against the manufacturer on the ground that he had suffered damages; but I am not trying to adjudicate such a question; I am only trying to make it compulsory on the part of the manufacturer to deliver the Government's orders when the Priorities Board says they have preference.

Mr. HALLECK. Has the gentleman given any thought to the constitutional inhibition against the impairment of a contract?

Mr. VINSON of Georgia. No.

Mr. HOFFMAN. Mr. Chairman, will the gentleman yield?

Mr. VINSON of Georgia. I yield.

Mr. HOFFMAN. As I gather the purpose of this bill, it is to compel industry to perform its contracts for national defense.

Mr. VINSON of Georgia. Without getting into any litigation.

Mr. HOFFMAN. How can they perform—the gentleman gets the rest of it?

Mr. VINSON of Georgia. Yes; I get the rest of it.

Mr. HOFFMAN. How can an industrialist perform when, as Mr. Green said before the Judiciary Committee yesterday or day before, you cannot compel a man to work in a factory?

Mr. VINSON of Georgia. That is true, you cannot compel a man to work anywhere, but just as soon as the House passes the so-called Vinson labor bill the

condition will pick up far better for the defense program.

[Here the gavel fell.]

Mr. MAAS. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, this bill is essential to carry through the defense program. It is true that there is a Priorities Board at present, which is endeavoring to allocate the various raw materials and partially finished products in a system of priorities to assure orderly defense production. However, there is great limitation on what can be done with the limited authority that does exist by law, and most of it is being done by Executive order. While it is true that virtually all of the things that are sought in this bill are in effect being done today, it would be far wiser to do this by law. I think the essence of a democracy is to rule by law and not by Executive order. The things that must be done in the Priorities Board are absolutely essential if our defense program is to be carried out, so it must be done either by Executive order with the consent of those involved or by law. On the basis of the proposed law, everyone will know exactly the situation. It is unfair to expect some concerns to comply voluntarily with priorities requests and other concerns who may be competitors refuse to do so, thereby putting the patriotic concern in a most disadvantageous position.

This bill assures that all will be treated alike; and, of course, it is essential that we absolve concerns from liability under private contracts by reason of their compliance with the priority orders. I see nothing controversial in the bill. The priority law that exists today relates only to Army and Navy orders, yet, that, of course, does not begin to meet the problem. It must be extended to all industry and to the lease-lend program, as that is now a definite part of our national policy.

Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Michigan [Mr. WOLCOTT].

Mr. WOLCOTT. Mr. Chairman, I was rather alarmed when the very distinguished chairman of the Committee on Naval Affairs said, in substance, that there would have been some hesitancy on the part of the Committee on Naval Affairs to report this bill out had Mr. Stettinius not been in charge of the program. I believe we all have a great deal of faith and confidence in the ability of Mr. Stettinius, but I believe the statement of the gentleman lends all the more weight to the argument which is being used today that if the United States goes to war, by that act we destroy the American form of government.

Some years ago we were asked to give consideration to what has been commonly referred to as the I. M. P. program—the industrial mobilization program—which was advocated, I understand, by the War and Navy Departments, and which was so far-reaching that we would not even consider the proposal because we knew that if that plan was enacted into law it would mean the end of the American form of government. I am not so sure but that we

are being asked to adopt piecemeal the industrial mobilization plan.

Last year, you recall, we had a bill before us which authorized loans of \$500,000,000 to the South American republics. At that time it was found necessary or expedient to acquire some excess stocks of strategic materials—rubber, manganese, nickel, tin, and so forth—and so we added to that bill a provision that the Reconstruction Finance Corporation would have the authority to set up subsidiary corporations to acquire and hold these strategic materials.

There has been set up under that plan the Defense Plant Corporation, the Defense Supplies Corporation, the Metals Reserve Company, and the Rubber Reserve Company, all of which today, in addition to the powers contained in their charters to purchase and hold strategic and critical materials, are exercising the right to administer a program of priorities to independent business.

We are going to be asked within the next week to broaden the powers of these corporations in language which this House repudiated last year when these corporations were set up. The bill is known as H. R. 4620, reported out of the Committee on Banking and Currency yesterday. It provides that, in addition to the powers already granted to these corporations, they shall have such powers as may be necessary in order to expedite the defense program, including, but not limited to, the powers contained in the act by which they were created. In other words, the sky is the limit.

Let us develop, therefore, the whole picture of which this bill is one very important part. We set up corporations to acquire and hold excess stocks of strategic materials. They have assumed the power to deal these strategic materials out to industry as they see fit. This bill is the third very important phase of a program which, if it is maladministered, and it may be as maladministered as are several other agencies in this country, can create a Fascist state in America by the socialization of American industry. I think we have given very superficial consideration to this program. [Applause.]

[Here the gavel fell.]

Mr. MAAS. Mr. Chairman, I yield 5 minutes to the gentleman from Montana [Mr. O'CONNOR].

Mr. O'CONNOR. Mr. Chairman, I believe that the Congress is confronted with the most serious condition of affairs that has ever confronted this Nation. We have men in appointive positions who assume the power to make commitments on behalf of the American people to foreign governments—men who have never had the intestinal fortitude to go before the American people for the election to any position. Who is this man Knox, who is making the commitment to Great Britain that we must furnish her our boys to do her fighting in violation of every pledge to our people? Who ever gave him the authority to make such a monstrous statement?

I call your attention to something else, and I hope you will remember his words. They appear in the testimony offered

before the Subcommittee on Appropriations of the House when the hearings were being held on the \$7,000,000,000 bill. Get his words. Mr. Knox is on the witness stand:

Mr. DITTER. Now, I should like to ask a question of the Secretary of the Navy: Mr. Knox, is it anticipated at this time that the Coast Guard is to be transferred from the Treasury Department to the Navy?

Pay attention to the reply:

Secretary KNOX. Not at this time; no, sir. Mr. DITTER. In other words, nothing has been done toward that end?

Secretary KNOX. No, sir; except that we have the plans all ready, in case of war—

In case of war that transfer will be made. That is his testimony.

He goes on—

whereby the Coast Guard will become a part of the Navy.

Now what do they do?

I hold in my hand a copy of the Baltimore Sun, and from it I read this article:

WASHINGTON, May 7.—Exercising once again its prerogative in time of emergency, the Navy today announced the taking over from the Treasury of the seagoing craft of the United States Coast Guard.

The action, approved by the President, makes available to the Navy 34 large cutters, 7 of which may be regarded as potential combat vessels, and a variety of small craft capable of performing highly useful naval service.

Mr. Chairman, that was to be done only in case of war, according to him when he was asking for the \$7,000,000,000. Has the Secretary of the Navy, Mr. Knox, whom the American people do not know except a few of them know him as a newspaperman in Chicago and a Cabinet officer, the power to put this country into war? Now he considers that he and Mr. Stimson have put us in the war and that we are in the war and therefore he makes the transfer. I am not objecting to the transfer, but I am objecting to this man attempting to speak with such authority. If I can read the Constitution, the power to declare war rests with Congress only? We have that power. It is being usurped, and we are letting him get away with it. That is the danger with which we are confronted today. Men without legal authority but assuming authority are committing this Government to a policy that means the slaughter of the flower of our young men of this country.

Mr. HOFFMAN. Mr. Chairman, will the gentleman yield?

Mr. O'CONNOR. I yield to the gentleman from Michigan.

Mr. HOFFMAN. What is this Congress doing about it?

Mr. O'CONNOR. That is what I want to know, What we are doing about it? We are taking it lying down.

Mr. HOFFMAN. The gentleman belongs over on the majority side.

Mr. O'CONNOR. There is no politics in this. I do not know who authorized him to speak, but we are letting an appointed officer try to commit 130,000,000 American people to a policy to which none of us has subscribed.

I do not think there was a single man running for Congress in a debatable district or for that matter, from the President down, who did not try to assure the American people that he would keep your boys out of Europe and out of foreign wars. I recall distinctly the statements of Mr. Willkie and Mr. Roosevelt, the President of the United States, then a candidate for reelection, although I may say that so far as Mr. Willkie is concerned, his words did not amount to much then, they do not amount to anything now as he admits they were campaign oratory, but Mr. Roosevelt was trying to assure the American people that if he was elected the boys would not be sent to Europe. But here Mr. Knox comes out with the statement this morning that we are committed to send our manpower to Europe. That is what is going on. [Applause.]

[Here the gavel fell.]

Mr. MAAS. Mr. Chairman, I yield 5 minutes to the gentleman from New York. [Mr. REED].

Mr. REED of New York. Mr. Chairman, the membership of the House knows of course, that there is a tax proposal before the Ways and Means Committee which, if the rates are embodied in legislation and enacted by the House, as submitted, the measure will raise \$3,500,000,000.

The theory upon which the tax is being imposed is that it must take from the people a sufficient amount of revenue to prevent them from purchasing consumer goods—just think of that—so their spending money may be diverted from the things that they may want into national-defense channels. The theory of that, of course, is to prevent inflation, and to some extent perhaps it will, but although the same theory was pursued in England it failed to prevent an inflation of prices. I have not the time to go into that now, but it is sufficient to say that under controls and taxation the prices soared in Great Britain in spite of the theory of having the government take over the spending power of the people in order to prevent inflation.

Now, there is not any question as to where we are being taken at the present time. I am not relying on information that is coming from our own Government sources. There is so much subterfuge and fraud in the information that is being passed out to the people that, of course, their thoughts are confused and they still think that all of these steps may be taken without our getting into war, but there is one source of authentic information which any Member can examine and know the truth. If you will read the more conservative publications of Great Britain, you will understand exactly where we are going and when the final step will be taken and exactly what the American people are expected to do and will have to do and that, of course, includes the manpower of the United States. I have had photostatic copies made of pages from the London Economist, in which they state that we will be nonbelligerent in 1941, belligerent in 1942, with the full armed power of this continent engaged in the war. I put

this in the RECORD, as I recall it, once before.

As we are going down this path to bloody war, this foreign war, of course, priorities are essential, but priorities can be greatly abused. Why are we in this situation? Why have we a shortage of essential war materials that requires this drastic legislation in regard to priorities? The President tells us that he saw this thing coming for a long time. He tells us that and, of course, if he saw it coming for a long time, I wonder why we were shipping these essential war materials to the Axis Powers. We have sent enough of our scrap iron and our copper to enable Japan to equip a large fleet of battleships and planes. We were able, as I gave the figures once upon the floor here, to send our copper and our supplies to that great democracy, Russia, pouring them in there to help defeat some of the countries like Finland, Norway, and other countries. The figures showed that many of the essential war materials that we exported were finding their way directly into Germany. It was only shortly after that famous speech about being stabbed in the back that shipments were stopped to Italy.

So we have been pouring these essential war materials into these countries, but, of course, now we face a situation where we have to have priorities, and if they are not applied with great care we are going to close down the small industries that are the economic power and strength of this country. We are going to eliminate pay rolls upon which the very life of our communities depend, and we are going to have unemployment and relief problems following in the wake of the present preparation for our full entrance into the war. I regret I have not the time to develop this matter further. [Applause.]

[Here the gavel fell.]

Mr. MAAS. Mr. Chairman, I yield the balance of the time to the gentleman from Michigan [Mr. BLACKNEY].

Mr. BLACKNEY. Mr. Chairman, the Committee on Naval Affairs, of which I have the honor to be a member, unanimously reported H. R. 4534, which the House is considering today. This bill amends section 2 (a) of Public, 671, of the act approved June 28, 1940, and further extends the power to establish priorities and allocate material.

You will recall that on January 7, 1941, the Office of Production Management was created by Executive orders. The Office of Production Management, referred to as the O. P. M., provides for three divisions: A Division of Production, a Division of Purchases, and a Division of Priorities. This bill, under consideration today, expands the priority power previously given to that division. The only mandatory power for the establishing of priorities is derived from the following clause in section 2 (a) of Public, 671, Seventy-sixth Congress, third session, in which the Director of Priorities is authorized to exercise—

deliveries of material under all orders placed pursuant to the authority of this section and all other naval contracts or orders and all Army contracts or orders shall, in the discretion of the President, take priority over all deliveries for private account or for export.

The Director of Priorities was advised by counsel that the foregoing statutory provision permits the granting of mandatory priorities only with respect to the deliveries of the end products—airplanes, tanks, guns, ammunitions, and so forth—ordered directly by the Army or Navy and the material, parts, and accessories which enter into the manufacture of such end products, under contract of the Army and Navy. This statutory provision was inadequate to cover the urgency of the present needs of the defense program and left out many important contracts and orders essential to the defense program.

E. R. Stettinius, Director of Priorities, Office of Production Management, pointed out four situations that the existing statute did not cover:

First. Contracts of the British Empire and other foreign governments under the lend-lease bill.

Second. Contracts for the expansion of production of scarce essential material and products.

Third. Contracts of other agencies of the Government, such as the Coast Guard, Maritime Commission, Panama Canal, and so forth.

Fourth. Other contracts of indirect importance to national defense.

It is well to remember also that the foregoing statutory provisions permit priorities to be granted under contracts "for private account or for export" but does not permit the establishment of preferences over other Government contracts.

The report and hearings accompanying H. R. 4534 also point out this necessity:

When shortages occur and are imminent as a result of the impact of the defense program, it is necessary to take steps to conserve the existing supply for defense purposes and to direct the distribution of such materials so that defense needs may be met, and where there is an insufficient surplus to meet all civilian needs, it is further necessary to direct such surpluses into those uses which are most important to maintain the economy of the country and to eliminate the uses which are least important.

Counsel for the Director of Priorities pointed out that this authorization was not given in the existing statute and, therefore, the necessity of the pending bill.

I am in favor of the passage of H. R. 4534 as a further aid in expediting the national defense. The power to establish priorities and allocate material will be one of the strongest steps that we can take toward the perfection of our own national defense. [Applause.]

The CHAIRMAN. The time of the gentleman from Michigan has expired. All time has expired. The Clerk will read.

The Clerk read as follows:

Be it enacted, etc., That section 2 of the act approved June 28, 1940 (Public, No. 671, 76th Cong.), as amended, is amended by inserting "(1)" after "Sec. 2. (a)" and by adding at the end of subsection (a) thereof the following:

"(2) Deliveries of material to which priority may be assigned pursuant to paragraph (1) shall include, in addition to deliveries of material under contracts or orders of the Army or Navy, deliveries of material under—
"(A) contracts or orders for the Government of any country whose defense the Pres-

ident deems vital to the defense of the United States under the terms of the act of March 11, 1941, entitled 'An act to promote the defense of the United States';

"(B) contracts or orders which the President shall deem necessary or appropriate to promote the defense of the United States; and

"(C) subcontracts or suborders which the President shall deem necessary or appropriate to the fulfillment of any contract or order as specified in this section.

Deliveries under any contract or order specified in this section may be assigned priority over deliveries under any other contract or order. Whenever the President is satisfied that the fulfillment of requirements for the defense of the United States will result in a shortage in the supply of any material for defense or for private account or for export, the President may allocate such material in such manner and to such extent as he shall deem necessary or appropriate in the public interest and to promote the national defense. The President shall be entitled to obtain such information from, require such reports by, and make such inspection of the premises of, any person, firm, or corporation as may be necessary or appropriate, in his discretion, to the enforcement or administration of the provisions of this section. No person, firm, or corporation shall be held liable for damages or penalties for any default under any contract or order which shall result directly or indirectly from his compliance with any rule, regulation, or order issued under this section. The President may exercise any power, authority, or discretion conferred on him by this section, through such department, agency, or officer of the Government as he may direct and in conformity with any rules and regulations which he may prescribe."

Mr. VINSON of Georgia. Mr. Chairman, I present the following amendment, proposed by my colleague, Mr. Cox, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. Cox: Page 3, strike out "The President" in line 6, and strike out lines 7 to 10, inclusive, and insert:

"(3) The President may exercise any power, authority, or discretion conferred on him by this section through a Director of Priorities (in this paragraph called the 'Director'), whom he is authorized to appoint by and with the advice and consent of the Senate. The Director shall receive compensation at the rate of \$12,000 per annum, and is authorized to appoint and fix the compensation of such officers and employees as may be necessary to carry out his powers under this section. The Director shall exercise his powers under paragraphs (1) and (2) of this section with the assistance of industry committees, which he is hereby directed to establish and utilize, and upon the basis of information furnished to him by such industry committees and upon the basis of such other information as he deems pertinent. Such powers shall be exercised by the Director only after prior approval of such exercise by the Joint Army and Navy Munitions Board."

Mr. VINSON of Georgia. Mr. Chairman, the amendment which I just sent to the desk is an amendment offered by my colleague the gentleman from Georgia [Mr. Cox]. At the time I offered it he happened to be out of the Chamber. I ask now that the gentleman from Georgia [Mr. Cox] be recognized in support of his amendment.

Mr. COX. Mr. Chairman, this amendment follows the arguments and suggestions that will be found in the Baruch report of the War Industries Board of the last war. The main purpose of the

amendment is to give industry an opportunity to be heard. These committees provided for have no official status other than that to be accorded representatives of industry occupying an advisory position. The further purpose of the amendment is to translate into statute the Executive order relating to this Board now headed by Mr. Stettinius. A further purpose is an attempt to freeze Mr. Stettinius into the organization, to guard against an urge or effort to make it possible to move him out and substitute some other in his stead. Gentlemen debating the rule preceding the consideration of the bill had much to say with regard to Mr. Stettinius. I believe the whole country has great confidence in him and I believe that industry and others would like to see him kept where he now is. This amendment would tend to accommodate that situation which many of us think is a need.

Mr. MARCANTONIO. Mr. Chairman, will the gentleman yield?

Mr. COX. Yes.

Mr. MARCANTONIO. In other words, the gentleman's amendment in the long run would bring about a situation where the successor to Mr. Stettinius would have to be confirmed by the Senate.

Mr. COX. The amendment carries that provision, but I am not so much interested in that as I am in broadening the provisions of the bill and strengthening it if possible, because I regard this as one of the wisest steps which Congress has as yet been urged to take. We ought to know, and we do know, I am sure, not only as a result of our general information but as a result of the lesson taught by the last war, that the mobilization of industry is quite as important as is the mobilization of men. The purpose of the bill in this case is to make possible an easy mobilization of industry, and I wish it were possible that the bill might be accepted without a dissenting vote. The amendment that I propose is supported by the Baruch report and gives industry the same opportunity to submit suggestions and to offer advice as was carried on in the War Industries Board of the last war. I hope the chairman of the committee in charge of the pending bill may find the amendment acceptable to him.

Mr. VINSON of Georgia. Mr. Chairman, my colleague gave me the privilege of examining his amendment before he offered it. I want to state frankly and candidly that I think the amendment should be adopted because it strengthens the bill.

Now, let us understand what we are doing. We are amending section 2 of the speed-up bill, conferring certain additional authority on the President. To carry that out the President set up what is known as the Priority Board, through the Office of Production Management, by Executive order, on January 7. The Office of Production Management is broken down into three classes, the Division of Production, the Division of Purchases, and the Division of Priorities. Everything that the Office of Production Management does about it has only the authority of an Executive order. There

is no statutory authority whatsoever for the activities of the Office of Production Management and the Division of Priorities. The amendment offered by my colleague from Georgia, Mr. Cox, breathes statutory life into the Office of Production Management. Why should it not do so? As one Member of Congress, I want to pass laws to govern the American people instead of governing them through Executive orders. [Applause.] For that very reason I reported a bill the other day from the Committee on Naval Affairs seeking to carry out by statute what the Mediation Board is trying to do. We are here—we are here to legislate. That is what we are paid for. When we have an opportunity to do so, let us go ahead and do it.

Mr. TABER. Mr. Chairman, will the gentleman yield?

Mr. VINSON of Georgia. I yield.

Mr. TABER. How long would the tenure be?

Mr. VINSON of Georgia. Two years. It is fixed in the bill. The other thought in the bill is that it makes it mandatory that whoever heads this Priority Division shall be confirmed by the Senate. Why should not the man who almost holds the life and death of industry in this country be confirmed by the Senate?

In addition to that, we create by this amendment a legislative division known as the Division of Priorities, and instead of having a man at \$1 a year, we pay him like he should be paid, a salary commensurate with the responsibility.

Another thing: I am getting sick and tired of so many dollar-a-year men coming down here. [Applause.] The Government is able to pay them. Let the Government pay them.

Mr. MARCANTONIO. Will the gentleman yield?

Mr. VINSON of Georgia. I yield.

Mr. MARCANTONIO. Certainly the gentleman does not feel that the dollar-a-year men are losing anything on the deal?

Mr. VINSON of Georgia. Well, I hope they are. I want to put them where they will not be criticized by such innuendoes as the gentleman from New York [Mr. MARCANTONIO] just made.

I trust this amendment will be adopted, because it establishes legally a Priority Division instead of by Executive order. It creates an office at \$12,000 a year and the appointment must be confirmed by the Senate. Then you place some responsibility through the Congress on the Priority Division instead of by Executive order. [Applause.]

Mr. MAAS. Mr. Chairman, I move to strike out the last two words.

I simply want to say I thoroughly endorse everything the distinguished chairman of the Committee on Naval Affairs [Mr. Vinson] has said. I certainly hope this amendment will be adopted. This office is going to wield vast power and it should be a legislatively created office, controlled by the Congress and subject to confirmation by the Senate.

I strongly bespeak for the adoption of the amendment.

Mr. CANFIELD. Mr. Chairman, I ask unanimous consent that the amendment may again be reported.

The CHAIRMAN. Without objection, the Clerk will again report the amendment offered by the gentleman from Georgia [Mr. Cox].

There being no objection, the Clerk again reported the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia [Mr. Cox].

The amendment was agreed to.

Mr. RICH. Mr. Chairman, I move to strike out the last three words.

Mr. Chairman, when we adopt this bill we just take one more step in giving power to the Chief Executive to conduct the affairs of Government and one more step to war.

When I view the legislation that has been put on the books in the past 2 or 3 months—the Conscription Act, the lease-lend bill, the \$7,000,000,000 to aid Great Britain, the ship seizure bill that we passed yesterday, and now this bill, I wonder just where we are going and where we are headed for. I think surely to war. I wonder if the Congress knows where it is leading this Nation. Thank goodness, I voted against all of them.

We criticized Italy for going into Ethiopia because she did not declare war. We criticized Germany for going into Poland, to Belgium, to Holland, and a number of other countries because she did not declare war on them. We criticized Japan when she went into China and fought the Chinese for several years because she did not declare war. Now, what are we doing? Do you know? You are doing the same thing. The American people do not want war. I have been doing everything I can to keep us from getting into war, and I propose to do that very thing as long as I can honorably, or until Congress votes war. But when I criticize Congress for not declaring war after it has passed the laws that have been passed in the last few months—I said the other day when commenting on what you are doing, "Why not declare war and be done with it?" I received a postal card from Michigan with a 10-cent special-delivery stamp and a 6-cent air-mail stamp. This is what it says:

"Why not declare war and be done with it?" interrupted Representative ROBERT RICH (Republican, Pennsylvania).

Have you men lost your minds—do you expect people to respect you when you are speaking of human lives to say, "Why not declare war and be done with it?" Shame on you! It's easily seen you won't have to go. How would you like to have your head blown off in war? Stop crying now; I didn't mean to scare you.

A. V. MARSHALL,
Otsego, Mich.

The news representative from Michigan who put that in the paper wanted to deceive the public. He wanted to make them believe I was for war when I have fought it in every way I could, and I have voted against all these bills and I am against all of them now and this one we are discussing today.

Why would the newspapers in Michigan try to deceive in this manner? They know the public does not want war. They know I do not want war. They ought to be ashamed of themselves. I

say this administration will be responsible if we get in war and no one else.

I never pay much attention to letters or cards that are not from my district, but I cannot pass over this attempt on the part of some newspaper to deceive, even going to the extent of wanting to make the public believe that the Members who are against war are asking for it. The only comment I can make is that there is a mighty deceptive press out in Michigan.

Whom are you going to believe here pretty soon? What are you going to do about it? Are you going to try to make the country and the world believe we are a peaceful nation? I do not think we are according to what you do. I am just as afraid as can be that you are going to get into this war. The President has said that convoys mean shooting and shooting means war. If we start convoys, as the Secretary of the Navy the other night implied we should, and they start to shoot at our vessels and some of them go down you will try to arouse the American people to the point of believing that some enemy went out of his way to shoot at American vessels. We passed a neutrality law and told the President and told the world we would not enter the war danger zone, but the President is tampering with that act and now he is going to send ships into this danger zone. When they get there they are liable to be sunk and with it this Nation may be sunk. God forbid that this Nation get into war.

We went to Europe in 1918 to make the world safe for democracy but we find out now it was a miserable failure, and you are getting ready to try it again. Will not you learn to stay at home and attend to your own business? When you meddle in other people's business you get into trouble. We have no business to try to police the world. I am 10 times more afraid of "fifth columnists" in America than I am in Hitler ever coming to America. Let us be for national defense and not for aggressive warfare.

[Here the gavel fell.]

Mr. VINSON of Georgia. Mr. Chairman, there are no further amendments, and the bill has been read. I ask that the Committee rise, under the rule.

The CHAIRMAN. Without objection, the pro forma amendments will be withdrawn.

There was no objection.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. THOM, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee having had under consideration the bill (H. R. 4534) to amend the act approved June 28, 1940, entitled "An act to expedite the national defense, and for other purposes," in order to extend the power to establish priorities and allocate material, pursuant to House Resolution 189, he reported the same back to the House with an amendment.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Chair announced that the ayes appeared to have it.

Mr. RICH. Mr. Speaker, I object to the vote on the ground there is not a quorum present.

The SPEAKER. The Chair will count. Mr. RICH. Mr. Speaker, I just want the Members to know I am opposed to the bill. I will withdraw my objection because of promises that have been made here.

The bill was passed.

A motion to reconsider was laid on the table.

The SPEAKER. The Chair recognizes the gentleman from Illinois [Mr. BEAM].

MEMORIAL DAY, 1941

Mr. BEAM. Mr. Speaker, I submit the following resolution, and ask for its immediate consideration.

The Clerk read as follows:

House Resolution 201

Resolved, That on Wednesday, the 18th day of June 1941, immediately after the approval of the Journal, the House shall stand at recess for the purpose of holding the memorial services as arranged by the Committee on Memorials, under the provisions of clause 40-A of rule XI. The order of exercises and proceedings of the service shall be printed in the CONGRESSIONAL RECORD, and all Members shall have leave to extend their remarks in the CONGRESSIONAL RECORD until the last issue of the RECORD of the first session of the Seventy-seventh Congress on the life, character, and public service of the deceased Members. At the conclusion of the proceedings the Speaker shall call the House to order, and then, as a further mark of respect to the memories of the deceased, he shall declare the House adjourned; and be it further

Resolved, That the necessary expenses connected with the memorial services herein authorized shall be paid out of the contingent fund of the House upon vouchers signed by the chairman of the Committee on Memorials and approved by the Committee on Accounts.

The resolution was agreed to.

EXTENSION OF REMARKS

Mr. BEITER. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include an article concerning the development of the St. Lawrence seaway.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

PERMISSION TO ADDRESS THE HOUSE

Mr. KRAMER. Mr. Speaker, I ask unanimous consent to read a letter I have received from one of my constituents.

The SPEAKER. The Chair cannot recognize the gentleman to consume time unless those who have other special orders agree that he may.

Mr. KRAMER. Mr. Speaker, I ask unanimous consent to address the House for one-half minute.

The SPEAKER. Without objection, it is so ordered.

There was no objection.



77TH CONGRESS
1ST SESSION

H. R. 4534



IN THE SENATE OF THE UNITED STATES

MAY 9 (legislative day, MAY 8), 1941

Read twice and referred to the Committee on Military Affairs

AN ACT

To amend the Act approved June 28, 1940, entitled "An Act to expedite the national defense, and for other purposes", in order to extend the power to establish priorities and allocate material.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 2 of the Act approved June 28, 1940 (Public,
4 Numbered 671, Seventy-sixth Congress), as amended, is
5 amended by inserting "(1)" after "SEC. 2. (a)" and by
6 adding at the end of subsection (a) thereof the following:
7 “(2) Deliveries of material to which priority may be
8 assigned pursuant to paragraph (1) shall include, in addition
9 to deliveries of material under contracts or orders of the Army
10 or Navy, deliveries of material under—

1 "(A) contracts or orders for the Government of any
2 country whose defense the President deems vital to the
3 defense of the United States under the terms of the Act
4 of March 11, 1941, entitled 'An Act to promote the
5 defense of the United States';

6 (B) contracts or orders which the President shall
7 deem necessary or appropriate to promote the defense of
8 the United States; and

9 (C) subcontracts or suborders which the President
10 shall deem necessary or appropriate to the fulfillment of
11 any contract or order as specified in this section.

12 Deliveries under any contract or order specified in this sec-
13 tion shall be assigned priority over deliveries under any other
14 contract or order. Whenever the President is satisfied that
15 the fulfillment of requirements for the defense of the United
16 States will result in a shortage in the supply of any material
17 for defense or for private account or for export, the President
18 may allocate such material in such manner and in such
19 amount as he shall deem necessary or appropriate in the public
20 interest and to promote the national defense. The President
21 shall be entitled to obtain such information from any person
22 such reports by, and make such inspection of the premises
23 of any person, firm, or corporation as may be necessary or
24 appropriate, in his discretion, to the enforcement or admin-
25 istration of the provisions of this section. No person, firm,

1 or corporation shall be held liable for damages or penalties
2 for any default under any contract or order which shall result
3 directly or indirectly from his compliance with any rule,
4 regulation, or order issued under this section.

5 “(3) The President may exercise any power, author-
6 ity, or discretion conferred on him by this section through
7 a Director of Priorities (in this paragraph called the ‘Direc-
8 tor’), whom he is authorized to appoint by and with the
9 advice and consent of the Senate. The Director shall receive
10 compensation at the rate of \$12,000 per annum, and is
11 authorized to appoint and fix the compensation of such
12 officers and employees as may be necessary to carry out
13 his powers under this section. The Director shall exercise
14 his powers under paragraphs (1) and (2) of this section
15 with the assistance of industry committees, which he is
16 hereby directed to establish and utilize, and upon the basis
17 of information furnished to him by such industry committees
18 and upon the basis of such other information as he deems
19 pertinent. Such powers shall be exercised by the Director
20 only after prior approval of such exercise by the Joint Army
21 and Navy Munitions Board.”

Passed the House of Representatives May 8, 1941.

Attest:

SOUTH TRIMBLE,

Clerk.

AN ACT

To amend the Act approved June 28, 1940, entitled "An Act to expedite the national defense, and for other purposes", in order to extend the power to establish priorities and allocate material.

MAY 9 (legislative day, MAY 8), 1941

Read twice and referred to the Committee on Military
Affairs

POWER TO ESTABLISH PRIORITIES AND ALLOCATE MATERIAL

HEARING BEFORE THE COMMITTEE ON MILITARY AFFAIRS UNITED STATES SENATE SEVENTY-SEVENTH CONGRESS FIRST SESSION

ON

H. R. 4534

AN ACT TO AMEND THE ACT APPROVED JUNE 28, 1940,
ENTITLED "AN ACT TO EXPEDITE THE NATIONAL
DEFENSE, AND FOR OTHER PURPOSES", IN
ORDER TO EXTEND THE POWER TO
ESTABLISH PRIORITIES AND
ALLOCATE MATERIAL

MAY 14, 1941

Printed for the use of the Committee on Military Affairs



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POWER TO ESTABLISH PRIORITIES AND ALLOCATE MATERIAL

WEDNESDAY, MAY 14, 1941

UNITED STATES SENATE,
COMMITTEE ON MILITARY AFFAIRS,
Washington, D. C.

The committee met, pursuant to call, at 10 o'clock a. m., in the Military Affairs Committee Room, Capitol, Senator Robert R. Reynolds (acting chairman) presiding.

Present: Senators Reynolds (acting chairman), Thomas (Utah), Johnson, Lee, Schwartz, Hill, Downey, Chandler, Wallgren, Austin, Bridges, Gurney, Holman, Thomas (Idaho), and Lodge.

The CHAIRMAN. We will come to order, please.

The Committee on Military Affairs has before it today H. R. 4534, to amend the act of June 28, 1940, entitled "An act to expedite the national defense, and for other purposes," in order to extend the power to establish priorities and allocate material.

(H. R. 4534 is as follows:)

[H. R. 4534, 77th Cong., 1st sess.]

AN ACT To amend the Act approved June 28, 1940, entitled "An Act to expedite the national defense, and for other purposes," in order to extend the power to establish priorities and allocate material

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act approved June 28, 1940 (Public, Numbered 671, Seventy-sixth Congress), as amended, is amended by inserting "(1)" after "SEC. 2. (a)" and by adding at the end of subsection (a) thereof the following:

"(2) Deliveries of material to which priority may be assigned pursuant to paragraph (1) shall include, in addition to deliveries of material under contracts or orders of the Army or Navy, deliveries of material under—

"(A) contracts or orders for the Government of any country whose defense the President deems vital to the defense of the United States under the terms of the Act of March 11, 1941, entitled 'An Act to promote the defense of the United States';

"(B) contracts or orders which the President shall deem necessary or appropriate to promote the defense of the United States; and

"(C) subcontracts or suborders which the President shall deem necessary or appropriate to the fulfillment of any contract or order as specified in this section.

Deliveries under any contract or order specified in this section may be assigned priority over deliveries under any other contract or order. Whenever the President is satisfied that the fulfillment of requirements for the defense of the United States will result in a shortage in the supply of any material for defense or for private account or for export, the President may allocate such material in such manner and to such extent as he shall deem necessary or appropriate in the public interest and to promote the national defense. The President shall be entitled to

obtain such information from, require such reports by, and make such inspection of the premises of, any person, firm, or corporation as may be necessary or appropriate, in his discretion, to the enforcement or administration of the provisions of this section. No person, firm, or corporation shall be held liable for damages or penalties for any default under any contract or order which shall result directly or indirectly from his compliance with any rule, regulation, or order issued under this section.

"(3) The President may exercise any power, authority, or discretion conferred on him by this section through a Director of Priorities (in this paragraph called the 'Director') whom he is authorized to appoint by and with the advice and consent of the Senate. The Director shall receive compensation at the rate of \$12,000 per annum, and is authorized to appoint and fix the compensation of such officers and employees as may be necessary to carry out his powers under this section. The Director shall exercise his powers under paragraphs (1) and (2) of this section with the assistance of industry committees, which he is hereby directed to establish and utilize, and upon the basis of information furnished to him by such industry committees and upon the basis of such other information as he deems pertinent. Such powers shall be exercised by the Director only after prior approval of such exercise by the Joint Army and Navy Munitions Board."

Passed the House of Representatives May 8, 1941.

Attest:

SOUTH TRIMBLE, *Clerk.*

The CHAIRMAN. From the House report on this measure it is obvious that clarifying legislation in extending the priorities power, is vital to defense.

It is indeed a pleasure to announce to the committee the names of the distinguished visitors who have graciously consented to speak to us on this very important matter—extension of priorities power—the Honorable William S. Knudsen, Director General, Office of Production Management, and others who are associated with him and with the Navy and War Departments.

With the permission of the committee, we will call the first witness. Judge Patterson.

Will you be good enough to come around here, Judge? We have had the pleasure of having you with us before, and we are glad to welcome you again, Judge.

Will you kindly give your name, title, and so forth, to the official reporter?

STATEMENT OF ROBERT PATTERSON, UNDER SECRETARY OF WAR

Mr. PATTERSON. Robert Patterson, Under Secretary of War.

The War Department, gentlemen, does not favor the inclusion of subsection 3 in H. R. 4534.

At the present time, the priorities organization is this: The priorities power, by Executive order, is vested in the Office of Production Management, and in the Division of Priorities of that organization. The Army and Navy Munitions Board lays down, for the guidance of the Director of Priorities, the military and naval preferences among themselves, that is, the Army and Navy Munitions Board will declare, in a priorities directive, that it is more important to have certain naval construction than certain anti-aircraft weapons, and has all of the items classified and given ratings.

I think that that is the proper function of the War Department and Navy Department, and they agree among themselves and have come to an agreement in every case as to preferences and priorities

of certain types of military weapons and certain types of naval weapons.

With that as a guide, the Director of Priorities, in the Office of Production Management, operates the machinery. He declares when materials are critical, and therefore priorities should be applied to them; and he carries out the necessary priorities machinery for according to those naval and military items the needed priorities essential to their prompt production.

I think the system is working well. The main bill here, of course, H. R. 4534, is beneficial. The amendment added by section 3 seems to me to distort the priorities arrangement. It singles out priorities for statutory treatment, when the priorities power is properly only one arm of the production, and one function of the Office of Production Management.

That seems to me to be unfortunate.

The last sentence, which would give a controlling power to the Army and Navy Munitions Board, I think misses the function of the Army and Navy Munitions Board. The Army and Navy Munitions Board doesn't attempt to do anything except to declare, as I have just said, the relative priorities between the Army and Navy items. It has certain naval items and certain aircraft items up at the top of the list; it declares that the national-defense program, from the point of view of military and naval experts, requires better treatment for those items than for certain items further down the list, field artillery or tanks—those are of a lower rating.

We see no reason why the exercise of priority powers, however, by the Director of Priorities in the Office of Production Management should be subject to the Army and Navy Munitions Board; and the Army and Navy Munitions Board does not desire any such power.

Senator BRIDGES. May I ask a question on this section 3 that is offered as an amendment in the House to this particular bill? How would this change the procedure from the present set-up?

Mr. PATTERSON. At the present time the Director of Priorities in the Office of Production Management is the active administrative officer of the Office of Production Management for priorities. His decisions are subject to control by a four-man set-up. They can, if they see fit, reverse him. That would not be possible, of course, under the proposed legislation.

Senator JOHNSON. Judge Patterson, in your opinion and in the opinion of the War Department, the bill would have merit if section 3 were stricken from the bill?

Mr. PATTERSON. Yes, sir; we would favor it.

Senator JOHNSON. You favor all of it except section 3?

Mr. PATTERSON. Yes, sir; heartily.

Senator JOHNSON. And you have no substitute in mind for section 3, there being none needed?

Mr. PATTERSON. I think none is needed.

Irrespective of the exact provisions of the present section 3, this can be said as to the inclusion of any such treatment of director of priorities, that it singles out for statutory enactment one phase of a larger picture—that is, production—and that is the function of the Office of Production Management, which has, of course, three divisions: Priorities, Purchases, and Production.

I don't think it is wholesome to take one of them and make that an office of this type. I think it is a distortion of the production administration as now carried on by the Office of Production Management.

Why not also have comparable declarations as to the director of purchases or the director of production, or as to Mr. Knudsen himself?

The director of priorities now is Mr. Stettinius, an aide of Mr. Knudsen's.

Senator BRIDGES. Judge Patterson, in the original House bill, as I understand it, there was a section stricken out on page 3 of the original bill. If, we will say, the section 3 referred to in the bill as now before the Senate Committee on Military Affairs were eliminated, would it be necessary to insert the section on the original House bill on page 3 of the House bill that was stricken out by the House?

Mr. PATTERSON. I think so; yes. There was a final clause omitted when this was inserted.

Senator BRIDGES. It says:

The President may exercise any power, authority, or discretion conferred on him by this section through such department, agency, or officer of the Government as he may direct in conformity with any rules or regulations which he may prescribe.

My question is whether, in your judgment, that should be reinserted?

Mr. PATTERSON. We would prefer to see that restored in lieu of the present section 3.

Senator THOMAS of Utah. Mr. Chairman, may I ask a question, please?

The CHAIRMAN. Senator Thomas.

Senator THOMAS of Utah. Mr. Secretary, we have before the Education and Labor Committee a bill which I introduced at the request of the Treasury Department which deals with priorities.

I am wondering if the administration, or those who are sponsoring these priorities bills, have studied these bills together.

It seems to me that there is a definite conflict of authority between the two of them, and if both of them should become law you would have a tangle in priorities which would not be wise or beneficial to anybody.

Mr. PATTERSON. I am not familiar with the bill you refer to.

Senator THOMAS of Utah. The bill is S. 1405, and was introduced by me at the request of the Treasury Department.

I wonder if it would be asking too much, Mr. Chairman, for those who are sponsors of this priorities bill, if they will not look into the matter and see if the Treasury and the other purchasing departments of the Government, cannot be brought into a single bill, so that we will not be legislating more confusion than we probably have.

Mr. PATTERSON. This is limited to Army, Navy, and defense aid.

Senator THOMAS of Utah. Well, you see, the Procurement Division of the Treasury Department gets pretty close to that very often, doesn't it?

Mr. PATTERSON. Yes.

Senator THOMAS of Utah. And if the President in his discretion has the right to take priority over all deliveries "for defense or for private account or for export" and all the rest of it, you still have another authority hanging over, which might upset your whole scheme of priorities.

Now, is my point well taken or not?

Mr. PATTERSON. Might I glance at that bill, please?

Senator THOMAS of Utah. I would be glad to have you. [Handing copy of S. 1405 to Mr. Patterson.]

Mr. PATTERSON. I am told that Mr. John Lord O'Brian, the General Counsel for the Office of Production Management, has given study to this S. 1405, and would be glad to comment on it this morning.

Senator THOMAS of Utah. Well, I don't know whether that comment is in order or not in this committee, I don't want to run out on my own committee; but we found in our first hearing that there was some confusion about jurisdiction, and some confusion about various kinds of amendments, and we adjourned for further consideration. Now, it seems that since you have, in one committee, the same persons—Senator Lee, Senator Bridges, Senator Schwartz, Senator Hill, and myself, who are all here—it might be well for a study to be made and to get out one priorities bill which would cover all of these departments.

Mr. PATTERSON. This bill, in general, seems to be designed to broaden beyond the Army and Navy business, all Government contracting, and put all Government contracting more or less on the level with the position that the Army and Navy contracts were given by the legislation of last June.

Senator THOMAS of Utah. That is just the point.

Mr. PATTERSON. It relieves the other departments from the necessity of advertising for contracts, and permits the use of the cost-plus—

Senator THOMAS of Utah (interposing). That is where the conflict will come.

Mr. PATTERSON. That is practically a repetition of what was enacted last June for the Army and Navy.

Senator THOMAS of Utah. Yes.

Mr. PATTERSON. And the design of this, I suppose, is merely to extend that to Treasury Department contracts or contracts made by the Department of Agriculture.

Senator THOMAS of Utah. That is true, but if you have a conflicting priority authority, you may overcome what you are attempting in your Army and Navy priorities—that is my point.

Senator JOHNSON. Why can't they appear and offer testimony in your own committee on this bill, and not confuse the issue here?

Senator THOMAS of Utah. They can; and I don't want to confuse the issue. I would like to see if this bill couldn't be broadened so that we could just leave lying on the table our bill.

Mr. PATTERSON. Well, there is no necessary conflict between the two. As I understand it, that bill is designed to give the same powers to other Government departments that are now enjoyed by the Army and Navy by virtue of the legislation passed last summer.

Now, this one, H. R. 4534, goes into some detail and amends the act of June 28, 1940, to strengthen it. I don't think there is any necessary conflict between the two. This only applies, as did the original act, to contracts made by the Army and Navy.

Senator THOMAS of Utah. You don't think there would be a conflict in the priority part?

Mr. PATTERSON. There might be some confusion.

Senator LEE. Mr. Chairman.

The CHAIRMAN. Senator Lee.

Senator LEE. I think Senator Thomas has raised a good question. I think it has been suggested that there is a man here who has made a study of that very point as to whether there will be a conflict, and therefore I think it entirely proper that we hear the man who has made a study on that point, as to whether or not there is a conflict between the two.

The CHAIRMAN. I think the suggestion is well taken by the members of the committee, Senator Lee; and if there is no objection on the part of the members of the committee, at this particular time I think we would facilitate matters considerably by hearing the gentleman suggested by Judge Patterson.

I would like to hear from the members of the committee upon that subject.

Mr. PATTERSON. I would just say at large, gentlemen, on that whole paragraph of the amendment here, in section 3 of H. R. 4534, that it is anomalous, in our view, to single out for statutory enactment, freezing, if you like, by act of Congress, one phase of an organization—that is, the priorities side of the present set-up in the Office of Production Management—and take that out bodily and put it under the form it is in now, with direction as to compensation, with the investing of these powers, and to be subject to the Army and Navy Munitions Board decisions.

I don't think it is a sound thing to lift out of the present arrangement and organization in the Office of Production Management one part of it, one-third of it, if you like—a very important part, too—but one-third of it, and make him a statutory officer when his superiors are created by Executive order.

Senator LEE. Mr. Secretary, will you comment on the way that was handled in the World War, as compared to the two propositions before us?

Mr. PATTERSON. My understanding is that the War Industries Board, headed by Mr. Baruch, was created purely by Executive order, the same method whereby the Office of Production Management has been created.

I don't think Mr. Baruch was ever authorized to act by virtue of any detailed statute such as is contemplated here. I am quite sure that is so. I discussed it with Mr. Baruch and he said his powers purely rested upon the Executive order.

Senator AUSTIN. Mr. Secretary I would like to get at the underlying reason for this position taken by you. Now, is it true that our experience in the World War developed the definite fact that behind all other efforts this ability to allot, and to quota, and to give priority was the most powerful sanction to obtain cooperation in the Government's total effort?

Mr. PATTERSON. It was a very potent weapon, there is no question about it. It wasn't the only one, but it was a very powerful one.

Senator AUSTIN. Now, then, did we not learn from the experience in the World War—that is, from the first 12 months of futility and confusion, and the next 6 months of most remarkable efficiency—did we not learn one great lesson, namely, that in order to make the wheels coordinate for our national workshop it was best to have a civilian agency with power supreme over the acquisition of military supplies and civilian supplies?

Mr. PATTERSON. I think so.

Senator AUSTIN. And is it true that the War Industries Board gained its success, of course, principally from the voluntary and willing cooperation of industry, but it always could resort to priorities in any case of a recalcitrant industry?

Mr. PATTERSON. Yes, sir; of course, they had more than priorities, and I think Mr. Baruch's body did much more than exercise priorities. They had control of Army and Navy purchases, just as the Office of Production Management has now. They did not in any way direct the Army or the Navy as to their requirements, nor did they take the initiative, as I understand it, with finding the sources of supply, but they did exercise, as is done now, a veto power in order to prevent the unnecessary bunching up of orders in some places, and they were the channel whereby Army and Navy orders were coordinated.

As I understand it, they made sure that if Bethlehem Steel had a great many naval orders, for instance, that Army orders were not unnecessarily bunched up there also.

Senator AUSTIN. Now, if you were to take this section 3 in the proposed bill, and include it into the Office of Production Management; or, rather, split away from Office of Production Management the control of this remarkable sanction that priorities gives, you would get an element of disorganization at once which would require one procurement agency going over and getting the consent of another procurement agency in order to apply the sanction, would you not?

Mr. PATTERSON. Undoubtedly.

Senator AUSTIN. And that would be right in the face of the experience, the very valuable experience, in the World War, would it not?

Mr. PATTERSON. Yes, sir; Mr. Baruch's organization had the priority power; it likewise had the power, as I have said, of allocating the Army and Navy business to the best industrial sources, from a picture of the whole thing.

The Office of Production Management is doing the same job now, and this would split off from them, and put into an independent agency one of those powers. I think it would be unfortunate.

Senator AUSTIN. Yes; so do I.

Senator LODGE. Those powers exist already in an existing agency, is that correct?

Mr. PATTERSON. Yes; and they would be strengthened by the first part of this act. The first part of this act, I think, is very beneficial, sir.

As I understand it, they are doing a good deal of this already, but it would undoubtedly be advantageous to have the priorities power given last June, specified in the manner proposed here.

Senator JOHNSON. Judge Patterson, what is the need for the reinstatement of the language that was stricken from the House bill, reading as follows:

The President may exercise any power, authority or discretion conferred on him by this section through such department, agency, or officer of the Government as he may direct, and in conformity with any rules or regulations which he may prescribe.

What is the need of reinstating that; doesn't the President already have that power?

Mr. PATTERSON. Yes; but I think that was only to pave the way for an Executive order by the President, just saying: "In addition to what O. P. M. is already doing, I tell them that they can do what is contemplated in this act." Isn't that the whole thing? I think so. He could just say that in one sentence, "All of my powers under this statute I delegate to the O. P. M."

That wouldn't in any way disarrange or embarrass the organization set-up.

Of course, there are specific provisions here, such as the last sentence, that I think are subject to more pointed criticism than the general one. I have confined myself in the main to just the section as a whole.

Senator AUSTIN. The sources of power of the War Industries Board, which made it perform what we might characterize as miracles, after its creation under Executive order, extended to many other things than the priorities, the power of the Priorities Division, but they were all operating under one responsibility, were they not?

Mr. PATTERSON. Yes, sir. I think it is sound policy to have the whole thing centered. The more we split it up, the more confusion we will get. I think it is also sound policy to have it under a civilian head. The Army and the Navy we have always viewed as being subject to the civilian power, and I think the system operates best when the priorities power and the whole production effort of the country is under civilian direction.

Senator THOMAS of Utah. Can you have two general priorities with two different administrators? Haven't you got a confusion of logic there that just simply doesn't hold?

Mr. PATTERSON. There is no question about that. We have confined ourselves to what we think are our proper functions in the War Department and the Navy Department, and that is to tell them what we need most, and what we need first, and then it is up to the Office of Production Management to take all measures to get those things for us in the order in which we ask for them.

I think that that is as far as the Army and Navy ought to go. We can't as a general rule, send a file of soldiers or a column of marines into the industrial plants here and have any good production.

Senator AUSTIN. Mr. Chairman, at a suitable place, perhaps following the testimony of Judge Patterson, I move that we insert in the record from page 143 forward, of Industrial America in the World War, by Clarkson, telling the story of the final and effective step in our industrial organization, namely, the setting up of priorities, because it is helpful, it answers the question asked by Senator Lee, which is a very pertinent question, I think.

I will mark this so that the reporter can know where to stop.

The CHAIRMAN. If there is no objection, then, the reporter will incorporate that in the record at the conclusion of Judge Patterson's testimony.

Senator Thomas, have you any other questions?

Senator THOMAS of Utah. No, sir.

The CHAIRMAN. Are there any further questions of Judge Patterson?

Senator GURNEY. May I ask the Secretary a question?

This clause, deleted by the House from the original bill, which says, "The President may exercise any power," and so forth—why would it not be correct in your request to reinclude that phrase in the bill, why would it not be correct to name the department through which the President is going to exercise this authority? In the clause stricken out by the House it says, "through such department, agency, or officer as he may direct." Why not say, "through the Office of Production Management"?

Mr. PATTERSON. I don't think the Office of Production Management has yet been referred to in any statute. My objection to that would be simply this—that last year we had the Advisory Commission referred to in at least two acts of Congress; one was the excess-profits tax law and the other the appropriations bills. Now, as I understand it, those are about the only two things that are now keeping the Advisory Commission alive. They have got to perform those functions.

It is just inelastic, I think, to refer in the statute here to the Office of Production Management when, for all we can say, it might be the part of wisdom 3 months from now to have a new body, instead of that one, or one man, if you like, or something of that sort; and then we would be trammelled by a reference in a statute to the Office of Production Management, similar to what we have got with the Advisory Commission, which is stalking around town, but as far as I know is only kept alive for those two reasons. It cannot be abolished because they have to pass upon tax certificates by act of Congress.

I think that that is the point on that.

Senator GURNEY. Thank you.

The CHAIRMAN. Mr. Secretary, just one word, please. As I understand it, the War Department has been perfectly satisfied with the present set-up?

Mr. PATTERSON. Yes, sir.

The CHAIRMAN. And your Division of the Government favors H. R. 4534 as originally introduced and passed?

Mr. PATTERSON. Yes, sir; that is, only to strengthen the priority powers already existent and not to disturb the organization that is exercising those powers.

The CHAIRMAN. And you oppose any change in the original act itself; in other words, the War Department is opposed to the Cox amendment?

Mr. PATTERSON. Yes, sir.

The CHAIRMAN. Thank you very much, Mr. Secretary.

(The excerpt from the book, "Industrial America in the World War" by Clarkson, previously requested to be incorporated by Senator Austin, is as follows:)

The final and effective step was the calling in of the principle of priority, which like so much else of the war implementry was not so much an invention as a product. War industry had not been going very long before manufacturers became bewildered by the clouds of Government orders for which expedition was demanded. Among many first, which should be first? They turned to Washington for direction, but who was to decide among a score of buyers, each of whom could see the issue of the war pivoting on preference for his particular supplies?

The demand for a program or at least schedules of preference in production was the natural complement of the simultaneously perceived need of

method in the placing of orders. Indeed, to clear orders is merely to institute priority at the beginning. However, the two phases of one task came up as presentations from opposite directions, and both were referred to the Council of National Defense which through the General Munitions Board established a clearance committee, as we have already seen, and at about the same time—May 3, 1917—set up a priorities committee.

At that time the priority function, as defined by W. S. Gifford, then director of the council, was that of determining "priority of delivery of materials and finished products, whenever there is a conflict in delivery, in accordance with the general policy of the Government." "It is further understood," this definition continues, "that at present the priority committee of the General Munitions Board has no power in regard to the determination of priority in regard to civilian needs in which the Army and Navy requirements are not involved. It is further understood that, as between the needs of our allies and of our civilian population, the priority committee of the General Munitions Board has no authority to act."

The Board had declared for a real priority system, but war was not yet the paramount business of the Nation; and a council composed of the heads of six great executive departments, each jealous of power and humanly ambitious for war honors, held inherently too many of the elements of indecision and procrastination. Also, it was reluctant to enter the limitless field of general industrial control, which a complete priority system would have involved, in view of the vagueness of legislative authority for such an enterprise. In determining priority for Government business, it was on safe ground because it was authorized to act for the Army, the Navy, and Shipping Board, on which priority rights had been conferred by Congress. At that stage of the development of the general public's war spirit or that of industry, the approval of those affected by the Board's request could not have been counted on. Later on, the War Industries Board had the legal basis for priority regulations that flowed from the Lever Food and Fuel Act and the Transportation Preference Act of August 10, 1917.

Although in transportation only did it have direct legislative authority relating to priority, the pooling of the powers by which priority could be enforced gave the Board a club with which to enforce regulations; but in all matters of priority in civilian goods it was without legal authority to order the doing of the necessary things, which it was in a position to enforce by indirect pressure. In these circumstances the Board felt it was more politic to request than to demand compliance with its regulations. It was no offense for an irate manufacturer who was far down the priority list to consign the Board and its chairman to inferno and flatly refuse compliance with its requests; on the other hand, the Board was not exceeding its authority if it arranged for the Fuel Administration to refuse coal to the obstructive manufacturer, and for the railways to deny him cars. Of course, he had to come into camp.

Yet it is important to point out that if industry had not early become animated with the war spirit of sacrifice and accommodation, and had not perceived the necessity of unity of action and discipline in its sphere as much as in the purely military sphere, the War Industries Board's career might have been one of endless bickerings and squabbles to an inglorious end by congressional action. After the Government took over the railways, the occasional rebel did not have a chance unless he was absolutely independent of railway transport and fuel.

The War Industries Board was wise enough to pivot all priorities on the Transportation Preference Act. Under the act the President appointed Judge Robert S. Lovett, chairman of the board of the Union Pacific Railway, as Director of Transportation Priorities, and he was made Priorities Commissioner of the Board. A new priorities committee was then formed with Edwin B. Parker as chairman. This was in the latter part of August 1917, so that it may be safely said that priorities as a system was not really developed before the fall of 1917.

It came to its zenith in the reorganization of the War Industries Board, following Mr. Baruch's appointment as chairman. At that time, Judge Lovett having joined the Railroad Administration, Judge Parker, as he was familiarly known, had become Priorities Commissioner and was rapidly building up the Priorities Division. The Priorities Commissioner, besides having the statutory control of preference in railway transportation, was authorized by the President, the Secretary of War, the Secretary of the Navy, the chairman of the Shipping Board, and the president of the Emergency Corporation to exercise by himself

and through the priorities committee such powers as they had respecting preference.

Finally, the President's letter of March 4, 1918, to Mr. Baruch, which was in effect an Executive order, conferred on the War Industries Board for priority purposes all the implied wartime powers of the Executive. At this time the feeble and merely advisory priorities committee of the spring of 1917 became a stalwart agency of industrial administration by Government. It was a potent factor in price-fixing, in conservation, curtailment, conversion, material rationing, regional dispersion of industry and general regulation thereof; and its application shaped the draft on manpower for the Army and Navy. Just as the War Industries Board intertwined itself among virtually all Government agencies, so the priorities function and power were mixed with almost everything the Board did.

The Priorities Division¹ consisted, besides the Commissioner, of two bodies, the Priorities Board and the priorities committee, of each of which the Commissioner was chairman, and three sections for the special administration of priority in regard to transportation, labor, and nonwar construction. The Priorities Board was the molder of policy and the priorities committee more of an executive, especially in routine and minor matters.

The Board contained in its membership representatives of the great purchasing and economic control bodies of the Government, including the Emergency Fleet Corporation, the Fuel Administration, of the Allied Purchasing Commission, of the Navy, of the Railroad Administration, of the Army, and of the War Trade Board. The committee was something of a mongrel in its composition, being made up of functional members, commodity representatives, and representatives of the Army and Navy as such, its composition being designed for administrative detail rather than for counsels of policy.

Stated in the simplest terms, the functions of the Priorities Division were "to determine, whenever necessary, priorities of production and of delivery and the proportions of any given article which are to be made accessible to the varying demands for it." This, the War Industries Board's own definition, points out that production priority involves priority in respect of plants, fuel supply, electric energy, raw materials, finished products, labor, and transportation in every form. The object of the priorities system, it was explained, was "by means of its function to resolve the conflicts that arise in the execution of the military and industrial programs over the production and distribution of commodities and the use of incidental agencies."

As the interdepartmental formulator of "general plans for the coordination of the military program, as presented by the military authorities, and the industrial program, insofar as such programs demand priorities," and as the designator of the agencies for the carrying out of the programs, the Priorities Board became one of the mightiest centers of power in the Government. As the Requirements Division brought all the Government departments and agencies vitally interested in war problems together to study and order requirements and to project policies into the future; so the Priorities Board brought them together to coordinate policies in their concrete application to production and delivery. The former sought to harmonize future demand; the latter to meet formulated and projected demand and coordinate them in fact. The difference between priorities in the early war days and priorities under the fully organized War Industries was the difference between day and night.

The Requirements Division and Clearance paved the way for automatic priority for the direct demands of the Army, the Navy, and of the Shipping Board, but the Priorities Board had to lay down a large scheme of group and individual

¹ Maj. Gen. J. B. Aleshire was chairman of the original priorities committee under the Council of National Defense. The membership of the Priorities Board, as finally organized, was: Edwin B. Parker, Priorities Commissioner, chairman; Bernard M. Baruch, ex officio; Maj. Gen. George W. Goethals, Army representative; Clarence M. Woolley, representing the War Trade Board; Edward Chambers, representing the Railroad Administration; Charles R. Piez, representing the United States Shipping Board and Emergency Fleet Corporation; P. F. Noyes, representing the Fuel Administration; T. F. Whitmarsh, representing the Food Administration; Alexander Legge, vice chairman of the War Industries Board, also representing the Allied Purchasing Commission; and Felix Frankfurter, chairman of the War Labor Policies Board. H. G. Phillips acted as secretary. The following was the personnel of the priorities committee: Edwin B. Parker, Priorities Commissioner, chairman; Charles K. Foster, vice chairman; members, George Arnsby, H. H. Barbour, W. W. Chase, Percy Holbrook, J. M. Hopkins, Henry Krumb, F. H. Macpherson, Rear Admiral N. E. Mason, Lt. Col. C. A. McKemey, Everett Moss, Lucius P. Ordway, T. C. Powell, Rear Admiral A. V. Zane. Maurice Hirsch acted as secretary, and Marcus B. Hall as assistant secretary.

priorities to protect the ultimate supplying of such demands and to restrict civilian consumption of foods, materials, and facilities to the barest minimum consistent with national health and safety. Except as food and fuel were already controlled by their respective administrations, the War Industries Board now, through priority, came into control of virtually the whole industrial life of the Nation and, through the relation of priority to the selective draft, in that it determined what were essential and nonessential industries, affected the personal destiny of millions.

General Crowder issued the dictum: "Work or fight." The War Industries Board determined the choice for vast numbers of men between the camp and the shop or office, for its policy was to close out or curtail industries unnecessary for the time being. Even more directly, the Board indicated to General Crowder the occupations he could cull for soldiers without danger of serious civil impairment.

The complex problem the priority function was to solve was fundamentally the ordering of the whole materially productive life of the country so as to serve military wants in the order of need to the greatest possible extent consistent with the maintenance of the fabric of economic life and of the physique and morale of the civilians.

It necessarily involved not only the application of preference as between nations, between domestic military and civil needs and among categories of military requirements, but also of discrimination in civil requirements. It involved in a broad sense the rationing of all the people and of all the industries. It was obvious that it was physically impossible to take each and every one of some thousands of commodities (though possible and actually practiced with certain basic commodities) and determine a system of fractional priority or participations, by which every necessitous demand would be met in the degree considered advisable. It would have been almost as hard, even if the total supply of commodities had been directly under the administration of the Board, to assign to each valid application for priority the precise numerical order of its participation.

In fact, the War Industries Board had to work priority without knowing definitely just what was the full legitimate demand and what the total supply with which to meet it. It had to take a chance on the unknown and lay down a fixed rule of access to materials and facilities in accordance with the relative importance of certain general requirements in respect of the big, national business of winning the war. It was quite prepared to see dispensable industries find the stores exhausted when their turn came, but it had to depend on its judgment and on the willingness of the people to bear privation as to whether some of the minor so-called indispensable requirements were met.

The simile of eggs in a basket was used by Gen. Hugh S. Johnson to present the solution of the problem in a graphic manner. A, B, C, and D have varying needs for eggs of which the basket contains an unknown number. Because of uncertainty as to the number of eggs, it is impossible to allocate them according to intensity of need among the four applicants for them. For the same reason it is not certain that A and B, as representing the most pressing needs, can be supplied by definitely curtailing C and D. Assuming, however, that A's need is paramount, we can say that he shall take the eggs so long as he needs them, and that thereafter B, C, and D may indiscriminately help themselves or have singular access to the balance according to the relative importance of their wants. If none of the three represent indispensable industry, it may be convenient to let them help themselves; or, if they vary in importance, it may be advisable to give B first chance at what A leaves, and so on. This is the skeleton of the priority system. It had its dangers, but it worked despite the fact that the War Industries Board did not attempt to police A, B, C, and D, and further despite the fact that it did not itself hold the eggs, even unknown as they were.

The four groups of the parable increased as the war went on, until on July 1, 1918, circular No. 4 made them coincident with the population by saying, "During the war in which the United States is now engaged all individuals, firms, associations, and corporations engaged in the production of raw materials and manufactured products (save foods, feeds, and fuels) are requested to observe regulations respecting priority"; and, of course, through the proper administrations priority was applied to the three exceptions.

Priority was localized in the War Industries Board and was its creation, but the composition of the Board made it the fountain head of the application of the

priority principle for the Government as a whole. In this aspect it had a certain weakness, for, although Presidential authority always stood behind it, there was a degree of lost power in applying it through bodies that were organizationally as supreme in ships, external trade, foods, feeds, and fuel as the War Industries Board was in the general field of industry. A perfect organization would have had the Board, or at least the priority administration, unquestionably supreme in the whole field of production.

The original priorities committee got under way in a comprehensive manner on September 21, 1917, when it issued priority circular No. 1, giving general directions and information as to procedure under its authority. It directed that iron and steel producers should rate their orders for products. Before that time large numbers of priority questions had been decided individually, but thereafter there was a formal system of receiving and granting applications for certificates of priority. The first certificate was issued on September 25, and from that time until the suspension of priority after the armistice more than 211,000 applications were dealt with. On the record day for applications, 1,901 were received, and the maximum number of certificates granted on 1 day was 2,121.

The method of rating established by the first circular provided for the division of all work and orders into five classes alphabetically designated according to order of precedence. Class AA comprised all urgent and exceptional war orders; class A included all other war work in general, such as arms and ammunition, naval and merchant ships, airplanes and locomotives; class B was made up of demands for production which, while not primarily for war purposes, were necessary to the maintenance of national vigor; class C took in all orders and all work not covered by priorities certificates or by the later established automatic ratings which contributed to purposes entitled to preferential treatment, as set out in a preference list. No certificates were required in this class nor in class D, the residuary class.

There was further subdivision of the classes. For example, to start the systematic work of administering priority with a clean sheet, all orders for products given by the War and Navy Department and the Emergency Fleet Corporation before September 1 were put in class A1. The application of priority, according to these ratings, did not mean that every order received by a factory should be first attended to according to its rating, but only that the rating should be so observed as to insure the completion of each job in the contract time. Thus the reception of an AA order did not mean the dropping of work on other orders so as to complete the AA order first, but only such a modification of factory procedure as would insure the filling of the AA order within the prescribed time. The Priorities Committee did not undertake ordinarily to issue precedence orders to each producer. The holder of a certificate of priority called for his materials and facilities from other manufacturers and exhibited his certificate in order to obtain the place in their manufacturing schedules to which it entitled him.

In time, it developed that automatic ratings could be assigned to a considerable portion of orders, and when all industries were put under control July 1, 1918, a scheme of automatic ratings was simultaneously applied, which avoided an administrative break-down from the immense amount of detail that would otherwise have been involved. Under this scheme the recipient of an order which would naturally fall into certain of the lower ratings would attend to his own priority rights, supporting his orders under them with an affidavit setting forth the facts entitling him to the rating named.

The Priorities Board and the Priorities Committee issued circulars defining the classification of purposes demanding preferential treatment, the one issued by the former on the day of its establishment, March 27, 1918, being the final one and having the superior authority that came with the wider scope of the board as distinguished from the committee. This general classification of purposes was later supported by a list of preferred industries, divided into 4 classes of preference, which was extended until it covered 73 industries and specified 7,000 plants whose product was of such a nature that it was considered that they should have special ratings above or below those into which they would fall according to the classification of purposes. The first class of industries had preference over all others in the production and supply of fuel and electric energy, transportation, and labor. The distinction between the 3 remaining classes was not hard and fast in practice, but was made rather as a

means of giving a general view of the relative importance of different kinds of industry.² All 4 classes enjoyed precedence over unclassified industries.

Priority, of course, was as inevitable as the force of gravity, as a part of any system of industrial control for war purposes. It was part of the munitions administration of all nations. A unique feature of its American use was that it was essentially voluntary and cooperative. The main lines of priority were virtually acquiesced in by what amounted to a congress of industry, before they were decided upon. Individual applications of priority were almost invariably approved by the judgment of those adversely affected when they were asked to decide for themselves in view of the general need and welfare. The annals of the War Industries Board are replete with instances of men and corporations writing their own death warrants, as it were.

Objections to priority regulations almost without exception proceeded from the isolated, individual point of view. When a complainant came to the War Industries Board bursting with what seemed to him righteous indignation, he would cheerfully reverse himself when the public-welfare point of view was presented to him. The spirit of service for the common good was ultimately supreme in all men in those times. The American businessman never showed himself more favorably than in his relations with the War Industries Board. When the hour of sacrifice came, he gave his business to the Government as freely as he gave his sons.

The writer believes that the War Industries Board, after March 1918, had ample power to effect anything it undertook, however vague, indirect, conditional, legal, or nonlegal that power was. It is true, however, that most of the big businessmen in its service hold the view that, while its moral and effective power was practically unlimited, its legal authority was so precarious that it effected its ends by sufferance rather than by authority. This position is doubtless due to the fact that, because of the opportunities for legalistic casuistry concerning many phases of the Board's work, and because there was a time when it had no authority, these executives had got into the habit of asking cooperation. It was so freely granted that they rarely had to think of the power behind them, and, in fact, they hated to appeal to it. When you do not have to use power to effect common action, you prefer to forget that you have it. A reasonable, flexible, human organization, like the War Industries Board, undoubtedly derived more dynamic force from the spirit of cooperation it encouraged than a rigid, statutorily superimposed executive agency could have commanded. Such an instrumentality might have enforced all that the law required, but the cooperative medium got far more. All men work better for us than for you.

Priority administration had an effect that was somewhat beyond the domain of the War Industries Board in the strict conception of the latter. Even when his powers were practically unlimited, Mr. Baruch held the view that the Board was not to interfere in purely military matters; that, broadly, it was for the war-making agencies to determine what they required of industry, and for the Board to see that they got it.

But, in seeking to meet these wants through priority and allied functions, the Board was many times forced to inquire whether military demands could not be modified or restricted. At one time the Army actually called for 20 suits of underwear for each soldier in France, on the theory that because of vermin they would have to be thrown away at the end of a week's use. The strain of such an order on the knitting industry led to inquiry, the systematic use of delousing apparatus, and the substantial reduction of the order.

There were many similar cases—often leading to wholesale cancellations; but in general the Board accepted military estimates, with the result that many industries were overstrained in efforts to produce within a short time things that would not be used up for a long time. Of course, the long, precarious, and slowly operating supply line between America and France necessitated that several months' consumption requirements should always be en route, in addition to prudent reserves; but, even so, there was an insistent effort to obtain more than the country could produce. It was not physically possible to buy and obtain within a year the amounts of goods represented by Army funds set aside for that purpose—more than \$15,000,000,000 in 1918. Had the

² For texts of circulars and orders of the Priority Board and the Priority Committee and administrative details, see *American Industry in the War* (Government Printing Office, Washington), being the final report of the War Industries Board; and the War Trade Board's *Government Control of Prices*, issued in cooperation with the War Industries Board.

War Industries Board been projected a little more into the military estimates of requirements, there would have been a much more equitable flow of orders.

By the instrumentality of priority the War Industries Board directed both production and distribution; it said what should be produced and where, and it said who should have the product. After the Board had extended its control to all industry not otherwise under Government control, American industry was for the time being nationalized as to management; and, through the war- and excess-profits tax and surtax, nationalized as to profits. It performed services according to Government direction and for the profit of the Government.

Individualistic American industrialists were agast when they realized that industry had been drafted, much as manpower had been. What none had foreseen had come to pass. Had any man said in 1916 that the whole productive and distributive machinery of America could be directed successfully from Washington, he would have been called a lunatic. Yet in 1918 that was being done. That it was a fact and not a theory was due to the transcendent spirit of the times. Business willed its own domination, forged its bonds, and policed its own subjection. There were bitter and stormy protests here and there, especially from those industries that were curtailed or suspended. Few men are great enough to see with equanimity their factories silenced when all around them is the clamor of unwonted business activity. Yet ninety-nine times out of a hundred the most resentful voluntarily made the sacrificial choice when asked: "Will you take this material or will you let the boys in France have it?"

The administration of priority was a complex and delicate task. Should locomotives go to Pershing to help him get ammunition to the front or should they go to Chile to haul the nitrate without which there could be no ammunition? Should steel go to destroyers whose mission was to sink submarines or to the merchant ships the submariners had thinned to the point of breaking down of the food supplies of the Allies? Should brass go to binoculars without which cargo ships could not leave port or to shells without which they need not go at all? Should nitrate go to munitions without which guns were useless or should they go to fertilizers without which the artillerymen would be foodless? Should acetone, indispensable for British explosive, go to the powder mills or to airplanes which needed it for their wings? Should chrome steel go to indispensable army trucks or indispensable army munitions? Should women be condemned to steel-less corsets or tinless preserved vegetables? Should cranes go to American wharves for loading ships for France or to French wharves for unloading the same ship? Should ships from Brazil bring coffee to bolster civilian morale or manganese for fighting steel? Should coal go to Italy to power munitions plants there or to coke here for steel for those plants? Should long-staple cotton go to tires for army trucks or to fabric for airplanes?

The wisdom of Solomon could not have infallibly decided all these questions and thousands like them—often posed by strenuous and commanding men, feverish with the excitement of the production race against time. But they were decided—and a decision was the main thing. No error of judgment in such matters could equal no judgment. Decision gave birth to order.

It would be overstating the case to give the impression that priority always worked like a clock. When any organization gets to that point in growth where dispositions are made automatically according to a prescribed routine, it enters the red-tape period, and as yet nobody has discovered how extensive business or government can be handled without system, which is the respectful name for red-tape. It is related that a priority order once reached the Baldwin Locomotive Works several weeks after the "rush" job for which priority was therein directed had been completed and shipped. In this case the Baldwin people simply had gone ahead with a task, which their own judgment told them was of a preferred nature.

The free-and-easy methods of such a democratic body as the War Industries Board, which was always emphasizing cooperation and minimizing compulsion, made it easy for bold spirits to ignore the rules. One great manufacturer proudly told the writer that he never paid any attention to official priority. "I always got what I wanted and got it when I wanted it," he said. However, as his plants were exclusively occupied with war work, the flexible Priorities Division may have provided for this autonomous administration of priority.

Nevertheless, there were many and devious ways of beating priority, which were sometimes resorted to for the general good, and at other times for the most sordid reasons. An instance of the former was when, under a district

railway embargo put on to clear up a congestion of traffic, a large munitions plant was unable to get shipment of an essential machine from a plant in another city. It found a way to beat the rules and get its machine when every effort to get a priority shipment right failed. Certain swindling jobbers of lumber made a fortune by taking advantage of automatic priority through a scheme of getting railway transportation preference under false representations.

Priority stepped on a lot of toes besides those directly banged by the preferential decisions. When demand exceeds supply, preference is in the hands of the seller, and so the purchaser pays him for priority, the priority that goes to the man with the most money. Administration of priority by the Government took that element out of prices, and a lot of profiteering fortunes that were on the ways were never launched. But here priority merges into price fixing, a topic to be dealt with in another chapter.

Notwithstanding the profound effect of priority in the direction of price-stabilization by establishing an orderly sequence of the satisfaction of demand and insuring supplies of materials to the holders of Government contracts, the dour critics, who insist that the United States won the greatest war in its history by failing in every department of the war effort, now contend that the Government should have followed the peacetime method of letting contracts by bids. The method actually followed was that of either negotiated or fixed prices, with priority as a means of general coordination of industrial sequences and interrelations. Competitive bidding under war conditions with the Government as an urgent buyer of all that could be produced would have been a mockery and with such a continuous confusion of production and stimulation of prices as can hardly be conceived. Competitive bidding in such circumstances is incompatible with such an indispensable regulator as priority or with such a brake as price fixing.

After the principle of priority had received general recognition, it became the most potent implement of industrial strategy, because with it industrial control became flexible; and industrial forces could be advanced, retired, and shifted to the flanks in the economic combat with the Germans just as surely as Foch could move his divisions and armies in the military conflict.

For example: In August 1918 the French reported that the draft of the combined French and American armies on French 75-millimeter shells was unexpectedly greater than production and that the reserves were being perilously depleted. They had fallen from 30,000,000 to 13,000,000. The Germans were on the run and then was the time to hammer them without stint. No shells were coming from America, and yet the French munitions plants were working only half-time for lack of steel. Within 5 days of the time that the French reported the situation to the Foreign Mission of the War Industries Board, the Mission had satisfied itself of the correctness of the French representation and cabled the Board for immediate assistance. On the sixth day, by direction of the War Industries Board, the Lackawanna Steel Co. and the Carnegie Steel Co. were diverted to the production of 75-millimeter steel, and the first shipments arrived in France within 3 weeks. The steel was actually arriving in France before the French Ministry of Munitions had formally placed orders for it. It came rolling into the French shell plants in such unfailing quantities that, with the 10,000 guns of the American and French batteries blazing away as never before, the French reserves went up to 19,000,000 shells.

That is priority in action. That is industrial strategy in war. Foch's manipulation of his millions was magnificent. But suppose their caissons had been empty, as they would have been but for the industrial manipulation in America—3,000 miles away.

Anybody will tell you that no American shells were discharged in France, but nobody will tell you that but for American steel, rushed to the front in the supreme emergency, there would soon have come a time when there would have been no French shells either. It was much the same with airplanes. We did not get large numbers to France, but, if we had not rushed the supply of steel, parts, spruce, motors, and a hundred other things to the French and British factories, there would have been very little Allied flying in the last months of the war.

Let us turn to another form of industrial strategy made possible through the flexibility of manipulation of industrial facilities by means of priority. Toward the end of the war General Pershing's artillery was on the verge of quiescence because of the lack of horses and mules to drag guns and supplies over the ruined roads and across country at the front. Spain had a surplus of mules,

but would not sell them. The War Industries Board, through General Dawes and the War Trade Board, found that Spain was in desperate need of ammonia sulphate as an ingredient of agricultural fertilizers, but could not import it because of the appropriation of the entire supply by the Allies for the manufacture of explosives. America itself was desperately short of ammonia sulphate, but Pershing needed those Spanish mules worse than the sulphate was needed at home, and the Spaniards needed it so much that they were willing to exchange for it the strategic mules that no gold could buy. The button of priority was touched; the embargo on the exportation of ammonia sulphate to Spain from the United States was raised; the Spaniards got their fertilizer and Pershing got his mules. Industrial strategy again.

With the establishment of the Priorities Board on the massed authority of the President and of the Navy and War Departments, the Shipping Board and the Emergency Fleet Corporation, the War Trade Board, the Fuel Administration, the Food Administration, the Allied Purchasing Commission, such direct Congressional authority as there was for priority, and with all the authority conferred on or acquired by the War Industries Board, there came into existence the apical form of industrial control known to the United States during the war, a form which eventually applied to all industry. While its legislative authority was vague, partial, and of patches, it put all industry inescapably into the hands of the War Industries Board, for there was no appeal from the decisions of the Priorities Board except to the chairman of the War Industries Board and the President. The rents in its garment of authority were amply filled by the docile and cooperative spirit of industry. The occasional obstructor fled from the mandates of the Board only to find himself ostracized by his fellows in industry. Through the development of the principle of priority and of its administration, the long-sought coordination was attained in theory and in practice to the full degree that might have been expected in view of the early termination of the war and the defect of its placement in the general scheme mentioned above. It was the supreme implement of the direction and discipline of national integrated industry.

And, be it noted anticlimactically and bluntly, priority became what it was only when the President notified all of the war-working agencies that no priority order would be issued without the approval of the chairman of the War Industries Board.

The CHAIRMAN. Mr. Knudsen, will you be good enough to come around?

Will you kindly give the reporter your full name and title?

Mr. KNUDSEN. William S. Knudsen, Director General, Office of Production Management.

The CHAIRMAN. Will you proceed, please, Mr. Knudsen, and provide us with your views regarding the original bill, and whether or not there is any objection to the amendment that was introduced in the House by Mr. Cox, and if so, why objections are being provided by your division?

STATEMENT OF WILLIAM S. KNUDSEN, DIRECTOR GENERAL OF THE OFFICE OF PRODUCTION MANAGEMENT

Mr. KNUDSEN. Mainly I can state it something like this:

In production, there are three functions. There is that of purchasing the material, that of following up and getting the material, and, third, that of producing.

You cannot separate one function from the other two, if you want to control the finished transaction.

Therefore, when we set up the Office of Production Management, those three functions of the priorities, really corresponding to the follow-up we have in private business, were set up with that in mind, that we could coordinate, first, the buying; second, the flow of material; and, third, the production of material.

We have worked on that basis right along, and I feel it would be—in fact, I am sure it wouldn't work to have a separate agency looking after priorities, where we would have to go and get permission every time we had to switch something in the field. That is liable to happen every day when we get up to top production.

So, as I understand it, our original authority didn't extend to subcontracts; it didn't extend to anything outside the Army and Navy, which we are bound to be up against now, especially, with the lend-lease bill in effect.

The idea is to give us the necessary permission to extend priorities to subcontracts and to items other than for the Army and Navy. That was the reason for the bill.

Senator AUSTIN. What are the words that do that? I am anxious about that. I think Senator Thomas' suggestion is worthy of careful thought at this time because my own impression, Mr. Chairman, is that we ought not to do this piecemeal; it ought all be done up and unified and have the bill cover the whole business. I think the suggestion of Senator Thomas ought not to be just passed by, and I would like to know what are the terms of this bill that extend it to other contracts? Are they only to be found in (A), (B), and (C)?

Mr. KNUDSEN. Yes, sir.

Senator AUSTIN. That is all.

Mr. KNUDSEN. Yes, sir.

Senator AUSTIN. Do you think that that is adequate?

Mr. KNUDSEN. Yes, sir.

Senator AUSTIN. You do?

Mr. KNUDSEN. Yes, sir.

Senator AUSTIN. Well, we want to study that.

Mr. O'BRIAN. As General Counsel for the Office of Production Management, could I say a word to clear this up?

The CHAIRMAN. Certainly.

STATEMENT OF JOHN LORD O'BRIAN, GENERAL COUNSEL, OFFICE OF PRODUCTION MANAGEMENT

Mr. O'BRIAN. These two bills, Senator Thomas, were introduced almost simultaneously. The bill before you that you are considering had been submitted to and had the approval of the War Department, the Navy Department, the Office of Price Administration, the Budget Control, and ourselves.

Broadly, it does include, you are quite right, the power that is in your bill. This language—

Senator AUSTIN (interposing). You are speaking to Senator Thomas when you say "you"?

Mr. O'BRIAN. I am addressing myself to the question of whether there is a conflict between these bills. The language for which you ask is on page 2 of the bill:

(B) Contracts or orders which the President shall deem necessary or appropriate to promote the defense of the United States.

That would include contracts in the so-called Treasury bill.

Senator THOMAS of Utah. But doesn't it just leave that very conflict that we would like to avoid? Is the President to be the judge of whether he shall follow the Treasury Department or whether he shall follow the War Department?

Mr. O'BRIAN. In both cases, Senator Thomas, the power is entirely in his discretion, and we had understood informally, off the record, that the Treasury people were not aware that this bill had been introduced, and that they would be willing to strike that from their bill. That is my information, but I can't speak authoritatively for the Treasury Department.

Senator LEE. Were the other departments aware that the Treasury Department bill had been introduced?

Mr. O'BRIAN. We were not—Office of Production Management was not—aware that that bill was introduced. They went in 2 or 3 days apart, one in the House and the other in the Senate. The Office of Production Management bill, the one that you are considering, had been submitted to all of these agencies except the Treasury and the Maritime Commission. It might just as well have been submitted to them, but it happened that they were not consulted. Our bill is really the joint bill of Office of Production Management, War, Navy, Mr. Henderson's commission—and had the approval of the Budget before it was introduced, and we were not aware that the Treasury was introducing the bill which you have, Senator Thomas.

Senator THOMAS of Utah. Can't we, then, Mr. O'Brian, ask that the sponsors of this bill take under consideration the bill which the Treasury submitted, and see if we can't make a joint bill out of them, so there won't be confusion. Then we can let the Treasury bill rest where it is.

Mr. O'BRIAN. We can do that——

Senator THOMAS of Utah. You will have to make friends with the Treasury, though.

Mr. O'BRIAN. What I am trying to say is this: The bill that you are considering, if you enact it in the form it came from the House, with that last sentence in it, will give the President the same power——

Senator ARSTIN (interposing). In order not to be misunderstood, will you state the language?

Mr. O'BRIAN. With this language, on page 3 of the bill you have before you——

The President may exercise any power, authority or discretion conferred on him by this section through such department, agency, or officer of the Government as he may direct, and in conformity with any rules and regulations which he may prescribe.

now that would cover, by its broad language, the provision that is in the so-called Treasury bill of Senator Thomas, but I am quite sure that the Treasury and ourselves can straighten this out. What I am trying to say is that there will be no conflict between us on that.

Senator LEE. But your answer is that there is conflict and overlapping as they now stand?

Mr. O'BRIAN. In the sense that the two bills provide for priorities; there is no conflict in the fact that both confer upon the President the discretionary power to grant priorities, in the Treasury bill as to Treasury contracts, and in our bill as to all contracts.

Senator LEE. The difference being that H. R. 4534 was sponsored by the Office of Production Management, the War Department, and the Navy Department—any other departments?

Mr. O'BRIAN. And the Office of Price Administration and Civilian Supply, Mr. Henderson's department.

Senator LEE. Whereas the other bill was sponsored only by the Treasury Department.

Mr. O'BRIAN. Well, that is my understanding, but I don't like to speak authoritatively about that.

Senator AUSTIN. Here is a practical question that occurs to me. In the exercise of his discretion, if the President had both of these bills in the form of law, could he split this priorities division so that you might have priorities set up in the Treasury Department that would fall into conflict with priorities set up in O. P. M.?

Mr. O'BRIAN. Theoretically that is true.

Senator AUSTIN. Well, we don't want that.

Mr. O'BRIAN. But actually, it would not work that way, because the President has already vested, by Executive order, in O. P. M., all of the statutory authority that was given him by Congress with respect to Army and Navy contracts and priorities, and when the Price Administration Division was set up, Mr. Henderson's division, he empowered Mr. Henderson to study civilian requirements and to make plans and recommendations to Mr. Stettinius, still retaining in O. P. M. the final power to administer all priorities.

Does that answer your question?

Senator AUSTIN. Yes; but we are dependent on that being frozen, are we not? It doesn't stay so by statute, it only remains so as long as the Executive order doesn't change?

Mr. O'BRIAN. That is true.

Senator LEE. Now, in the World War, was there any precedent established for the Treasury exercising a priority power through procurement, which did not originate in the War Industries Board?

Mr. O'BRIAN. I am sorry, but I can't answer that, Senator, I don't know.

Can you answer that, Mr. Henderson?

Mr. HENDERSON. There were and do exist some priorities under an emergency by the Transportation Act, in order to give sanction and priorities for movement of rail transportation.

Now, during the World War, these were made accessible to Mr. Baruch for the enforcement of priorities under the commodity statute. That was done by President Wilson, and it bears out the point that Judge O'Brien has made, that if you had this duplication of two bills, it would not mean a confusion because the President has lodged the priorities power in the Office of Production Management, and presumably, by the Rules and Regulations, he would carry that forward and lodge the same power under the Treasury bill right in the Office of Production Management.

Senator LEE. But all of the power in the World War set-up began and ended with the War Industries Board, which was headed by Mr. Baruch?

Mr. HENDERSON. Well, you speak of power, Senator Lee——

Senator LEE (interposing). I mean with respect to priorities.

Mr. HENDERSON. Yes; the power with respect to priorities, but their sanctions through the Transportation Act were made available to him from the transportation agency by Executive order.

In other words, you are correct, the War Industries Board did have available all the Executive powers for carrying out any priority it established on any industrial plant.

The CHAIRMAN. Gentlemen of the committee, Mr. Vinson who is chairman of the Naval Affairs Committee of the House, is here this morning, and we are very glad to have him with us. He mentioned to me a moment ago that he would like at this juncture to make a statement in reference to some of the remarks already made with respect to the bill under consideration.

Mr. Vinson, before you begin your statement, are there any of the members of the committee who would like to ask Mr. Knudsen any questions before he retires?

Senator CHANDLER. Mr. Knudsen, in your opinion is this amendment objectionable, and would it work a hardship on those of you who are trying to get this job done?

Mr. KNUDSEN. It would, indeed.

Senator SCHWARTZ. I just have in my mind here that neither of these bills refers to the Treasury Department or the Office of Production Management, so in view of the President's power there should be no conflict in them, even if they were both enacted.

Senator CHANDLER. The original bill said that the President might handle it under any agency, and as I understand it, this amendment is going to require him to name a director, whether he wants to or not. If the bill says he "may," that presupposes that he "may not," too. I prefer that he be permitted to handle it as he wants to, if it is going to be effective.

Under the original bill it says he "may" handle it through some agency he has already constituted or may hereafter, but it is in his own discretion and in his own power the way he wants to handle it, and the way that perhaps would be most effective.

This requires him, with the advice and consent of the Senate, to appoint a director whether he wants to or not. I have no objection to his appointing one, but if the amendment is adopted it says that he "may," and then he "may not," too.

But it doesn't add anything, it leaves it to him finally to say whether he may appoint anybody or may not.

Senator SCHWARTZ. What I had in mind was that neither the Senate bill, or the bill that we have here this morning, refers to any particular executive body.

Senator CHANDLER. I think the Senator is right about that.

The CHAIRMAN. Are there any further questions of Mr. Knudsen? If not, thank you very much, Mr. Knudsen.

Now, Mr. Vinson, will you be good enough to give your name to the reporter?

STATEMENT OF HON. CARL VINSON, CONGRESSMAN FROM THE STATE OF GEORGIA, CHAIRMAN OF THE HOUSE NAVAL AFFAIRS COMMITTEE

Mr. VINSON. Mr. Chairman and Members of the Committee:

I am deeply grateful for your according me this privilege of making a brief statement in regard to this bill, H. R. 4534, which I introduced at the request of Mr. Knudsen and Mr. Stettinius.

The reason why they requested that I introduce this bill was because the committee handled the bill of which this is an amendment, what was known as the naval speed-up bill.

In handling these bills, we oftentimes probably encroach on the jurisdiction of other committees. The Naval Affairs Committee and the Military Affairs Committee deal with the question of national defense. We are not very strict in the House as to jurisdiction. Therefore, the Military Affairs Committee had as much jurisdiction on the original bill, as it was passed out, as did the Naval Affairs Committee, and this committee has just as much jurisdiction on the subject matter today as the Senate Naval Affairs Committee, and therefore it has been properly referred to your committee.

Senator AUSTIN. Would the Congressman permit a question there?

Mr. VINSON. Yes.

Senator AUSTIN. I believe that our precedents here in the Senate show that in a case of bills that concern both Army and Navy, they have been referred to the Military Affairs Committee as a priority.

Mr. VINSON. That is right, and in the House the bulk of them come in to the Naval Affairs Committee, because it is satisfactory to the Military Affairs Committee.

Now, Mr. Chairman, the purpose of my appearing here this morning is for two reasons: First, I know how important it is that some mandatory and statutory priority be enacted, that I am hoping that a bill which will be enacted won't be so amended that it will require a long conference and further hearing by the Naval Affairs Committee.

Now, in regard to the bill of Senator Thomas, S. 1405, if that were incorporated in this, which deals with the question of competitive bids and of conferring upon the Treasury Department the right of negotiated contracts—I am apprehensive that that would delay this bill considerably, because it would tie it up in the conference, and it is highly important that this bill be enacted just as early as possible, for various reasons which Mr. Stettinius and his group can say.

So, I am hoping that in this inquiry the bill will not be so amended as to make it long delayed in conference and require it to be debated again on the floor of the House.

Senator THOMAS of Utah. My whole question had to do with priorities, the conflict that might come there, the very thing you want to avoid.

Mr. VINSON. Yes; but I think we ought to deal with these things and let each stand on its own merits.

This bill of yours, with all deference to you, without examining it, opens up a question. It says, "Without advertisement or competitive bids." Well, that question would be debated for a week on the floor of the House.

Senator THOMAS of Utah. It is already allowed in regard to the Army and Navy.

Mr. VINSON. I know it, under certain conditions fixed in this bill right here which established the principles, for the first time, of negotiated contracts under which the War and Navy Departments are doing certain things wholly in the interests of national defense. But this would permit the Treasury Department to do things by negotiated contracts which now the law requires to be done by competitive bidding.

So I am hoping the Senate won't incorporate that subject matter in this, because I am afraid if it does there will be considerable delay on this bill.

Senator THOMAS of Utah. Since you so completely misunderstand what I am trying to do, I had better say a word.

There is no rivalry of jurisdiction. It was just in trying to get rid of a jurisdiction that made me bring this matter up. I had no idea of incorporating ungernane things in any bill. That is very far from my mind. What I want to do is avoid this very confusion you are trying to talk about.

My whole point is based upon the theory in regard to priorities, and just in regard to priorities.

My mind is very simple, but I can't understand any priority at all if you have a conflict in jurisdiction in regard to priorities, because that just doesn't work.

Now, that is the only reason I brought this thing up here, so that we can withdraw this bill as far as its priority section is concerned, and take out that section if it can be covered in here.

Mr. VINSON. Well, I am just hoping, Mr. Senator, that whatever amendment you put in this bill will be of such character that it won't delay the bill, because the Priorities Division of the Office of Production Management is very anxious, and they have got very pertinent reasons, for its enactment just as speedily as possible, which I can state to you—

Senator THOMAS of Utah (interposing). I think we all understand that, Mr. Vinson. I believe we have got a grasp of what the Government is trying to do.

Mr. VINSON. Now, with reference to the Cox amendment, I accepted the Cox amendment when it was presented on the floor of the House, and the House unanimously approved it, and so did it unanimously approve the bill. And the theory upon which I accepted the Cox amendment was this:

While I recognize the fact that on January 7 the President issued an Executive order creating the Office of Production Management, headed by Mr. Knudsen, one of the most distinguished men in America, and Mr. Hillman, and then later on broke it down into three groups—the Priorities Division and the Purchasing Division, and some other division—and headed the Priorities Division with Mr. Stettinius. Now, the thought that was in the mind of the House was this: They were so impressed with Mr. Stettinius leading this Division that they wanted to make it possible, if it could be done by some expression of Congress, to have that type of man lead the Priorities Division.

Now, I agree thoroughly with what Judge Patterson had to say with reference to the Army and Navy Munitions Board. Of course, they should not be over the Priorities Division, and should be working like they are, in collaboration with the Priorities Division.

Now, that was in back of the whole theory; if you will read the debate on the floor of the House, and if you will read my statement, you will notice at the very outset I stated that in view of the far-reaching power being conferred by the priorities bill, amending the act of last year, that had it not been headed by such a distinguished man as Mr. Stettinius, whom the whole country has confidence in, and who holds practically the very existence of industry in the palm of

his hand, there would have been some hesitancy on the part of the Naval Affairs Committee of the House in reporting the bill out in the first instance.

It is the type of personnel that sold the bill to the committee and sold it to the House, so that they passed it without a single amendment except the Cox amendment, which was offered entirely on the ground that the President had made such a wise selection in placing Mr. Stettinius at the head of it.

Now, I have drafted for your consideration a substitute for the Cox amendment, and I respectfully request consideration of it when you come to mark up the bill, because I want to say now that the House wants some assurance that Mr. Stettinius, or a man like Mr. Stettinius, will continue to be at the head of the Priorities Division, if it is humanly possible to draft it in language to accomplish that.

Senator LEE. Mr. Chairman.

The CHAIRMAN. Senator Lee.

Senator LEE. Chairman Vinson, do you think we can write personalities into legislation?

Mr. VINSON. Not a bit in the world, but you can express it in such a way that you accomplish the same thing.

So we said this, and here is the substitute I am offering: "The President may exercise any power, authority, or discretion conferred on him by paragraph (1) or paragraph (2) of this section, through a Director of Priorities (in this paragraph called the Director), except that the President may, to the extent that he deems desirable, make the exercise of such power, authority, or discretion by the Director subject to the supervision or control of the Director General of the Office of Production Management, in association with the Assistant Director thereof."

Now, what does that do? That merely keeps under the O. P. M. the Priorities Division, and it doesn't divorce it like it was sought to be divorced in Mr. Cox's amendment.

Then we say, "The Director shall be appointed by the President, with a salary of \$12,000, and shall be confirmed by the Senate."

Now, that is our view on that. We think that a man occupying this important position should be confirmed by the Senate and should be paid a salary.

Senator LEE. Mr. Chairman.

The CHAIRMAN. Senator Lee.

Senator LEE. May I say to Mr. Vinson: I understood you to say that you wanted speed here on this, and now you bring in another amendment?

Mr. VINSON. That is right.

Senator LEE. Trying to put in this descriptive language in legislation, which would be interpreted in each man's mind according to his own judgment.

You have heard the Secretary of War here say that this bill is satisfactory without that. Don't you feel that what you offer here is not strengthening the bill at all?

Mr. VINSON. Yes; I think it strengthens it materially.

Senator LEE. But will offer an opportunity for delay?

Mr. VINSON. No; I think it strengthens it materially, because we are operating entirely today by the O. P. M. under an Executive order. We are asking that we confer by statute, broad legislative authority to the O. P. M., which is divided, as I said, into these three groups, which has broad powers over industry.

Then, I think that the man that heads it should be at least approved by the Senate.

Senator JOHNSON. Are you extending broad powers to the O. P. M., or are you extending broad powers to the President?

Mr. VINSON. To the President.

Senator JOHNSON. That is a different matter entirely.

Mr. VINSON. Of course, we all know that the President cannot administer it himself, and so he set up this agency. Of course, he could give it to the Secretary of War, if he wanted to, or the Secretary of the Navy, but he has designated it to the O. P. M.

Senator JOHNSON. The President may find in 3 months from now that the O. P. M. can't satisfactorily do the job, and he may have to create another agency. Why tie his hands?

Mr. VINSON. That is the very point. When we confer this broad authority upon a director we want the Senate to have a voice as to who is going to administer it.

Senator SCHWARTZ. But isn't this the vice of your position: That you are crystallizing the present set-up and we are in a situation, world situation, that changes from day to day, and if you enact that amendment, you have crystallized the O. P. M.?

Mr. VINSON. But you are crystallizing the authority by the amendment to the bill. Now, if you crystallize the authority and broaden their power over and above this Act, then certainly we should have some control over it.

Senator SCHWARTZ. And further, however high regard you may have for the particular individual that occupies the position at this time, the language of your bill would not control the Executive at all.

Mr. VINSON. Of course not, but getting back to your point—the only thing in the law about priorities is in this bill that I introduced, known as the speed-up bill, which says, "shall take priority over all deliveries for private account or for export." That is all the law on the statute books dealing with the question of priorities. Now they have come in here and asked for broad powers, and I am perfectly willing to give them those broad powers, and I want to crystallize that into a statute; but when I do, when I do give them those broad powers, then I say that Congress, the legislative branch of the Government, should have some voice in who is going to run it.

Senator LEE. In other words, here in the Senate a minority could hold a thing like that up indefinitely right in the midst of war? We debated the lease-lend bill longer than it took Hitler to conquer four countries, and you want to throw that right back—

Mr. VINSON (interposing). That is true with everything that happens under the rules of the Senate, with all deference to the Senate. That is true with everything.

Senator LEE. I guess I asked for that.

Mr. VINSON. So the Senator here, and the Senator here, hit the nail on the head. You are criticizing me for trying to crystallize the present set-up—

Senator SCHWARTZ (interposing). I am not criticizing you at all—

Mr. VINSON (interposing). I don't mean it in that sense. Yet at the same time, you are going to pass, and we have already passed, broad statutory authority to the President to delegate anybody he sees fit, assuming he sweeps aside the O. P. M. and puts in a new set-up there.

Yet we have already written the basic law here, in this bill, by which he can go out and take priorities over any industry in the United States that has got national defense contracts. The very existence of the whole industry of the country is in the palm of his hand, by this amendment that we are putting in here.

For instance, Mr. Stettinius could have a concern, a civilian concern, come up that has a contract for the War Department and he could, by arbitrary rules, almost destroy that concern as far as its private contracts are concerned.

Senator SCHWARTZ. That is presuming a good deal. I don't think arbitrary rules would be adopted.

Mr. VINSON. Not a bit in the world, but I think when Congress broadens this power, it ought to be broadened and immediately, and I am hoping you won't delay us in conference, because everything that is being done today is being done voluntarily.

Senator LEE. Do you think you are broadening it when you limit it to having the head of the priorities confined by the Senate; isn't that a limitation?

Mr. VINSON. I might say, privately, I was delaying it considerably, but publicly I want to say that I am expediting it, because I think the Senate would act speedily on this matter. Of course they would, and you know it and I know it.

Senator LEE. You are broadening it beyond what we had in the World War?

Mr. VINSON. Why shouldn't it be broadened; why should Government be run by Executive orders?

Senator SCHWARTZ. That depends upon what function of Government is being operated at the time under those Executive orders, and it depends upon what the situation of the country and the Nation and the world is at the time.

Mr. VINSON. In regard to that, you could so run it the entire time, in peacetime and in time of national emergency, without Executive orders.

Senator CHANDLER. What do you say to the proposition that they are running it all right now? If we are going to have any success, we have got to let the fellows run it who are running it, and let them run it the way they are running it.

Mr. VINSON. All right, but when they come to Congress to get broad legislative and statutory authority, then that is where Congress should step in also.

Senator CHANDLER. They are satisfied with the way it is, and they have got to do the job.

Mr. VINSON. They can't do it by Executive order, that is the very reason they are here.

Senator LEE. Where are they held up?

Mr. VINSON. They are held up for this reason—they are held up for the simple reason that you have got to have it obligatory and

mandatory on the part of industry that it will give priority to what the Board says must have priority, and they can't do it today except by statute.

Senator LEE. During the World War, by the control of the railroads under the Transportation Act of 1917, and under the Lever Act, relating to foods, and under the Overman Act, they had plenty of control of industries.

Mr. VINSON. Yes; and they also were handling other things by Executive order and were getting along exceedingly satisfactorily; but today, unfortunately, it is not proceeding as it—

Senator CHANDLER (interposing). I want the job done, I don't care who does it, and I want it done well. And if those who are now trying to do it say that it is working all right, I think it is a limitation if we adopt this or undertake to adopt it.

Mr. VINSON. Another point—a manufacturer under this provision now, as it stands, might be subject to suit. We exempt him from any liability for nonperformance of his contract for a private contractor, and it is highly important that you do what the Priorities Board wants done.

But when you do that, and clothe them with more authority than they have had, and when they are asking broader powers, then Congress should exercise its right to legislate and let the Senate make the confirmation of it.

Senator SCHWARTZ. This House bill relieves any corporation from any damages or penalties for any default?

Mr. VINSON. That is right, and that is the reason it is necessary to pass the bill.

Senator SCHWARTZ. Sure, we want to pass the bill, but we don't want a limitation in it, we don't want to crystalize a situation that is fluid and changing every day.

Mr. VINSON. Let me ask you—do you think if the President hadn't established some priorities board and clothed it with such distinguished men as Mr. Knudsen, Mr. Stettinius, and Mr. Henderson, and those people, that, not knowing anything in the world about it, we would come in here and delegate all this uncertain power to some uncertain agency? Of course we wouldn't. I can only speak for the some 30 men on my committee.

Senator LEE. If they are such distinguished men, why don't we take their word about this?

Mr. VINSON. We are taking their word.

Senator LEE. They just got through telling us that they didn't want this amendment. Also, why are you so good to the Senate that you want to give us additional powers?

Mr. VINSON. I think sometimes the Senate needs a little help from the House.

Senator CHANDLER. I agree with you.

Senator DOWNEY. Could I ask that Mr. Vinson again read the amendment that he now proposes that we adopt?

Mr. VINSON (reading):

The President may exercise any power, authority, or discretion conferred on him by paragraph (1) or paragraph (2) of this section through a director of priorities (in this paragraph called the "Director") except that the President may, to the extent that he deems desirable, make the exercise of any such power, authority, or discretion by the Director subject to the supervision or

control of the Director General of the Office of Production Management (Mr. Knudsen) in association with the Associate Director thereof (Mr. Hillman).

Now I don't divorce the Priorities Division from the O. P. M., I keep it under the O. P. M. so it can dovetail together in every respect.

Senator SCHWARTZ. That is one of the very things that I would want to avoid, I wouldn't want to crystallize these Executive powers even in so distinguished a body as the O. P. M. at this particular time. They might pass away, you know, you can't tell what will happen.

Mr. VINSON. I am always fearful of traveling in the dark, I want to see the light before me, before I step.

Senator SCHWARTZ. Yes; but I don't want to put a pair of blinders on me, and then travel.

Mr. VINSON. Well, you have got your eyes wide open on this, because you know who is going to administer it. It may be anybody, but you would have a voice in saying whether you approved that selection—that is what I am asking for.

Senator JOHNSON. Were you not impressed by Secretary Patterson's statement a few moments ago, that the O. P. M. does not now appear in any Federal statute, and that it ought not to appear in any Federal statute, and yet you are writing it right into this statute?

Mr. VINSON. I don't agree with the distinguished Secretary, because I think that wherever it is possible to enact a statute, it should take the place of an Executive order. I think the correct way to legislate is by statute, and not by Executive order. That is the very reason I am sponsoring this proposition. That is the very reason that I have introduced a bill trying to breathe statutory life in the mediation and conciliation Executive order.

What are we sent here for?

What are we elected for?

Has the day come to America when we are going to run this Government, 130,000,000 people by Executive order?

With all due deference to the President, and with all respect to his Executive orders, we are elected to legislate, and that is all I am asking for here, to exercise the legislative authority of Government, as well as the Executive authority of Government.

Now, there are hundreds of cases where it makes for confusion to legislate, where you can accomplish a great deal more by Executive order; but when you can accomplish it by statute, and have the flexibility required by an Executive order in the statute, then it is all right to enact it.

But of course if the Senate doesn't want that legislative authority, that is their business. I am just expressing the views of the House. The House wants that authority, the House wants to legislate whenever it is possible to legislate, because that is what we are charged with, and that is how you keep your three branches of Government separate and distinct, by stepping in and legislating.

Senator CHANDLER. Let me ask you one more question? Suppose your amendment were adopted, would the President have to do what you told him to do?

Mr. VINSON. Of course not.

Senator CHANDLER. And he could ignore it if he wanted to?

Mr. VINSON. But you, and every other Senator, would have a voice in what he did.

Senator CHANDLER. Well, suppose he just read that, Mr. Vinson, and decided that he wouldn't use it?

Mr. VINSON. Well, he could do this, he might not use the O. P. M. He might say, "I will administer it myself." But when he does delegate that authority, we say that the Senate shall have a voice in the approval of it.

Senator CHANDLER. You agree that he may not do it?

Mr. VINSON. He may not do it, he might say, "Since they want to have a voice in it, I won't let anybody run this thing except myself." Well, he has got the authority in there to run it.

Senator BRIDGES. You believe then that the Office of Production Management originally should have been set up by legislation rather than by executive order?

Mr. VINSON. Of course I do. The basic law under which the O. P. M. is trying to live is a statute, and it is so drawn out from that basic law that you can't carry any statutory existence in the O. P. M. But if the O. P. M. could be clothed with that statutory authority, it ought to be clothed with the statutory authority.

Senator LEE. Mr. Vinson, you don't believe an emergency ever arises where a democratic form of government must repose in the Executive unusual powers in order to meet that condition; you would have it all done by the slow democratic processes which we can only enjoy in normal peaceful times?

Mr. VINSON. No; for 27 years I have been voting unlimited authority, during the World War as well as this emergency, to the President, and I am perfectly willing to give him any authority he wants at any time, but——

Senator LEE (interposing). But——

Mr. VINSON (continuing). But, if we can legislate when a matter comes before us like this matter, we ought to legislate.

Senator LEE. We have time to legislate on this, but in the future we might be putting a block in the way, at the most critical hour of this country, that would hamstring the President and the executive authority so it couldn't act quickly, as the action of one man would be required?

Mr. VINSON. Carrying your line of thought out——

Senator LEE (interposing). I know, you are going to say that we are creating a dictator.

Mr. VINSON. We might just as well pack up and go home, we might just as well delegate the authority to appropriate and everything else, and go home.

Senator LEE. I don't think that follows.

Mr. VINSON. It is the ultimate conclusion.

The CHAIRMAN. Right there, if you will pardon me just a moment. This doesn't make it mandatory upon the President that he appoint a director.

Mr. VINSON. Of course not, the President may exercise his discretion.

Senator JOHNSON. If he is going to get the job done——

Mr. VINSON (interposing). Unless he does it himself.

The CHAIRMAN. Or directs somebody to do it.

Mr. VINSON. If he directs anybody, that person has got to be confirmed by the Senate.

Senator JOHNSON. This amendment says that he must do these things through this agency.

Mr. VINSON. The President may exercise any power, authority, or discretion conferred on him"——

Senator JOHNSON. (interposing). Go ahead.

Mr. VINSON (continuing). "By paragraph 1 or paragraph 2 of this section through"——

Senator JOHNSON (interposing). That is your point?

Mr. VINSON. I am merely saying that if he does decide to do it, by somebody else, he has got to do it through a director in this set-up.

Now, of course, the original law says this, "in the discretion of the President, take priority over all deliveries," and so forth, and he delegated the authority to the O. P. M.

That is all I have got to say, Senators. I am very grateful to you. If you don't think you want this additional responsibility, when you are broadening and crystallizing great powers in the O. P. M., it is a matter that addresses itself to your superior judgment. But I think that since we are broadening this power, since we are crystallizing it, Congress should step in and have a voice in saying who shall be made the director.

I want to say this, I think the O. P. M. under Mr. Knudsen and Mr. Henderson and Mr. Stettinius is a great organization, and they are doing great work down there, and I am heartily in accord with it. But if I can strengthen their hand by breathing statutory authority into it, it ought to get that breath of life, and they haven't much authority by Executive order.

For that reason, they are here asking that they have statutory authority.

The CHAIRMAN. Are there any other members of the committee who would like to direct any inquiries to the chairman of the House Naval Affairs Committee?

I want to ask you one question. How many divisions are there in the O. P. M.?

Mr. VINSON. Three.

The CHAIRMAN. Well, if you are going to have a Director of Priorities, why shouldn't you have directors of the other divisions?

Mr. VINSON. The reply to that would be, just as soon as Mr. Henderson comes up asking for statutory authority on the Purchasing Division. If he came before my committee, I would do the exact same thing I have tried to do here, I would try to give him some statutory authority.

Senator LEE. And with that, limitations?

Mr. VINSON. No; the O. P. M. is divided up into the Division of Production, Division of Purchases, and Division of Priorities. Mr. Stettinius has been designated by Mr. Knudsen and Mr. Hillman, and approved by the President, as the head of the Division of Priorities. Mr. Henderson has been designated as head of the Division of Purchases. That should be Mr. Nelson. Now, suppose Mr. Nelson's division were to come before the Congress and say, "We can't get along under this Executive order, and we want some statutory authority to do things" under something that hasn't been even created by statute, then I say that somebody ought to step in, the Senate ought to step in, the House can't step in. But it ought to be you gen-

lemen that ought to have a voice and say who is going to do this, since we are broadening the powers of the original order.

The CHAIRMAN. Aren't you, on the contrary, rather limiting the powers of Mr. Knudsen?

Mr. VINSON. No, sir.

The CHAIRMAN. Doesn't he have to go through the Director of Priorities?

Mr. VINSON. Of course not; the director of priorities would have to go all the time through the director general, which would be Mr. Knudsen and Mr. Hillman, because by the very language here everything that the Priorities Division would do would be subordinated under something that hasn't already been created by statute.

The CHAIRMAN. But, on the contrary, wouldn't Mr. Knudsen have to go through the director of priorities?

Mr. VINSON. No.

The CHAIRMAN. That would naturally follow?

Mr. VINSON. Mr. Knudsen would be the superior, he would be at the head of it. I say this, "except that the President may, to the extent that he deems advisable, make the exercise of such power, authority, or discretion by the Director subject to the supervision or control of the Director General of the Office of Production Management and his Associate Director."

Having that, the Priorities Division would be dovetailed right under the supervision of Mr. Knudsen and Mr. Henderson.

Senator SCHWARTZ. Isn't that the situation now?

Mr. VINSON. Exactly.

Senator SCHWARTZ. Then what is the use of legislating on a situation already in existence?

Mr. VINSON. My reply is that since we are broadening and giving them statutory authority under the Priorities Division, then we should step in and have a voice in who runs it.

The CHAIRMAN. Thank you very much, Mr. Vinson; we are very happy to have had you with us.

Mr. VINSON. I trust, Senators, you will get this bill through and out, so we can get through with it as soon as possible.

The CHAIRMAN. We assure you that we shall put forth every effort in that direction.

Mr. Stettinius, will you be good enough to provide the reporter with your full name and title?

Mr. STETTINIUS. Edward R. Stettinius, Jr., Director of Priorities, Office of Production Management.

The CHAIRMAN. You may proceed, Mr. Stettinius.

STATEMENT OF EDWARD R. STETTINIUS, JR., DIRECTOR OF PRIORITIES, OFFICE OF PRODUCTION MANAGEMENT

Mr. STETTINIUS. Mr. Chairman, I have prepared a very brief three-page résumé of this entire subject, and with your permission I should like to distribute this to each of you gentlemen, and also, sir, to make it a part of the record. I don't think it will be necessary for me to read it all. It is a repetition, in some respects, of testimony of preceding witnesses.

I should like to call attention to a very exhaustive treatment of the whole priorities question, entitled "Priorities in Defense," a booklet which we have distributed over 50,000 copies of, and I would think that each member of the committee might like to have that for reference purposes.

The CHAIRMAN. I am sure they would.

Senator JOHNSON. We want this whole statement, however, in the record.

Mr. STETTINIUS. Thank you; but if I could high-spot it, I would like to do so.

The CHAIRMAN. If you think this is the kernel of the situation here, I think it would be a good idea for you to read it, because some of the members of the committee might desire to direct certain questions on certain statements.

Mr. STETTINIUS. All right; I will do so.

First, I would simply like to say that I am deeply appreciative of the sentiments expressed by Mr. Vinson, and I hope that he will understand the spirit in which I speak very frankly, as I view this entire situation.

At my request, the Office of Production Management urged the passage of a bill containing the substance of H. R. 4534 to extend the power to establish priorities and allocate materials. A detailed memorandum showing the need for each provision in that bill was furnished to the House Naval Affairs Committee by the Office of Production Management and appears in their report. That memorandum was prepared under my supervision by the Priorities Division of the Office of Production Management.

The provisions of the bill, as indicated by the memorandum, were carefully worked out to grant those powers which the Priorities Division, from practical experience in its operations of the past several months, has found it essential to have at the present time. These provisions were cleared with the Departments of War and Navy, the Divisions of Production and Purchases of the Office of Production Management, the new Office of Price Administration and Civilian Supply, and with the Bureau of the Budget.

After Mr. Vinson's introduction of the bill in the House, I and members of my staff appeared before the House Naval Affairs Committee and explained at length and in detail the need for each of the provisions.

This testimony, of course, appears in the transcript of that hearing, and in the report of the House Naval Affairs Committee in reporting out the bill.

The bill, as reported out of the committee, was entirely adequate, we felt, to give the powers which I and my assistants in the Priorities Division believe now to be necessary.

The new paragraph (3) was inserted during debate on the floor of the House. This new paragraph authorizes the appointment of the Director of Priorities to exercise the powers given by the bill as an independent officer. It thus constitutes a priorities agency separate and apart from the Office of Production Management, the War and Navy Departments, and all other agencies. In my opinion, this result of the new paragraph is most inadvisable. Water has gone over the dam since this was prepared, but I believe that my remarks which

follow still are applicable to the revised amendment submitted by Mr. Vinson this morning.

I should like to explain my reasons for this opinion.

Priorities is an essential tool, but nevertheless merely one tool among several, for the expediting of defense production. Its main purpose is to get quick and prompt deliveries of articles required by the various armed services. Its exercise must be completely integrated with the agencies charged with procurement and production of defense articles.

However, Priorities has a further function, namely, to deal with raw materials and industrial materials required for defense, where the impact of the defense program results in over-all shortages of these materials. In this area, it is the function of Priorities first to see that the defense program obtains sufficient quantities of these scarce materials: but, secondly, it is equally important to see that the balance left over for civilian consumption are properly utilized. Where such shortages occur, inevitably the balance available for civilian consumption is insufficient to cover all civilian needs. It therefore becomes necessary, when such shortages occur, to direct the distribution of the balance, after fulfillment of defense needs, in order that the supply left over may be used for the more important civilian needs, rather than to allow it to be consumed in nonessential uses. In this field, it is essential that the Priorities Division be completely coordinated with production, with procurement, and with the administration of price control and civilian supply, represented by Mr. Henderson and his assistant administrator, Mr. Weiner, who has been assigned to work with us.

Therefore, to repeat, priorities must be geared first with the procurement and production of defense needs; and secondly, with the control of prices and consumption in the civilian field.

The present set-up has been carefully created to meet these requirements. The Office of Production Management contains a branch dealing with the acceleration of production, as explained previously, designated as the Production Division; also a branch dealing with procurement, designated as the Purchases Division. Further, the Secretary of War and the Secretary of the Navy sit as members of the Council of the Office of Production Management, thereby tying in the armed services; that is, Mr. Knudsen, Mr. Hillman, Secretary Knox, and Secretary Stimson, sit as members of the Council. Therefore, the Office of Production Management furnishes a coordinated, integrated system, under one coordinated agency, which ties together the armed services, and functions of procurement, production, and priorities.

The Office of Production of Management is constituted within the Office for Emergency Management in the Executive Office of the President. Also within the Office for Emergency Management are other defense organizations, including the Office of Price Administration and Civilian Supply, Mr. Henderson, which provides for close relationship between the latter and the Office of Production Management.

We feel that in the integration of Government functions, it is necessary to establish close and harmonious personal contacts and relationships as to set up the proper organization. Not only has this form of organization been carefully worked out to meet the requirements of coordination which I have described above, but further,

over a period of many months, the required personal contacts and relationships have been established so that there is now a smooth and harmonious working arrangement under which priorities is coordinated with the War Department and Navy Department, and the Divisions of Production and Purchases, and the Office of Price Administration and Civilian Supply.

Gentlemen, to take out the Priorities organization and set it off as an independent agency will tend to interrupt this efficient coordination which has been so carefully worked out, in our opinion. With a separate and independent agency exercising the priorities power, we will lose the coordinated supervision under one organization of all the elements necessary to obtain defense production.

Moreover, any alteration in the present set-up will inevitably lead to delays, and any delay at the present time of the defense program is to be avoided at all costs.

The CHAIRMAN. Thank you very much.

Is there any other statement that you would like to make in regard to your position, pertaining to this bill and the amendment proposed in the House by Representative Cox, and as supported by the chairman of the Committee on Naval Affairs this morning?

Mr. STETTINIUS. No, sir. I do wish to endorse the testimony of Secretary Patterson. I feel that the essence of the thing, Mr. Chairman, is that production and priorities are Siamese twins, using a common staff, a common personnel, common industry committees in many places, common research and statistics, and to divide those two operations in any way is to give one statutory authority and not the other which, in my opinion, at this time would lead to confusion.

Senator LEE. Mr. Chairman, may I ask a question?

The CHAIRMAN. Senator Lee.

Senator LEE. Mr. Stettinius, have you run into any lack of power in getting this defense job done?

Mr. STETTINIUS. No, sir; the Priorities Division has the necessary authority, we feel, to do the job.

Senator JOHNSON. Then why this bill?

Mr. STETTINIUS. Well, I should clarify that, excepting that there are certain clarifications of things that we have found necessary to do that were not anticipated in the July 28 act.

Senator JOHNSON. Then you do need this bill?

Mr. STETTINIUS. I beg your pardon, sir; we do need this bill, and need it urgently to clarify certain things that we are already doing.

Senator LEE. You want to put a final foundation of legislative authority under what you already are doing?

Mr. STETTINIUS. That is correct, sir.

Senator LEE. Have you had any occasion to use the authority given the Government under the amendment which the Senate attached to the bill to draft industries that refused to cooperate in defense?

Mr. STETTINIUS. We have not had occasion to use that yet, Senator, as far as priorities are concerned.

Senator LEE. Has that served as the gun behind the door in any instance to bolster your authority?

Mr. STETTINIUS. I think Mr. Knudsen could talk more intelligently on that than I, as he is the head of the Office of Production Management, but it certainly has been a useful gun behind the door as far as the Priorities Division is concerned.

Senator JOHNSON. Will this legislation give you any authority or power to take over a private industry?

Mr. STETTINIUS. No further than what is already supplied in section 9.

Mr. LODGE. Could you give the committee an illustration of a situation that you cannot deal with now which you will be able to deal with after this bill becomes law?

Mr. STETTINIUS. The allocation of materials. For example, we are now monthly receiving 14,500,000 pounds of nickel from Canada. The matter of allocating that, Senator Lodge, for defense needs and the remainder to civilian needs is something that needs clarification, and, I think, is a specific example of why we need this added power.

Senator LODGE. You cannot now allocate it with complete freedom?

Mr. STETTINIUS. Technically; but now we are getting into legal territory, and I have with me Geoffrey Smith, our assistant general counsel, who could deal with this from a technical standpoint, if you wish to get into that.

Senator LODGE. I am trying to just be enlightened as to what is the need for the legislation.

Mr. STETTINIUS. I would think, sir, after the general questions of me, that it might be helpful for you gentlemen to quiz Geoffrey Smith for a moment on such a question, because in 2 minutes he can give you a review of the specific A, B, C needs of this thing, in addition to what powers we already have, sir.

Senator HILL. Mr. Chairman, unfortunately I had another committee meeting of a good deal of importance, and I was late in getting here. I do not wish to impose upon the committee or the witness by going over a lot of ground that has already been gone over, but I am interested in the suggestion to strike out this section 3. Is there any reason, if that section stays in the bill, and the President wanted to appoint you as Director of Priorities—is there any reason why, under that language, you could not be appointed Director of Priorities, and also carry on the other duties you are now carrying on, Mr. Stettinius?

Mr. STETTINIUS. I think that could be done, Senator Hill, although I think it would be a mistake. I am appointed now by Mr. Knudsen and Mr. Hillman, with the clearance of the Secretary of War and the Secretary of the Navy, and with the approval of the President.

I think that there is no reason why I should be appointed by the President, with the approval of the Senate, any more than the head of the Production Unit of O. P. M., or the head of the Purchasing Unit of O. P. M. should be appointed by the President and approved by the Senate.

As I said, I think before you came in, certainly priorities and production are Siamese twins, and they have to function together, and the man in charge of production is doing many far-reaching things in the matter of controlling industries, just as we are.

Mr. Vinson was very kind in his remarks, but there is no act that I can perform as an individual without the full approval of my superiors, and which can be reversed at any time.

After all, really, actually, Mr. Knudsen and Mr. Hillman and Secretary Knox and Secretary Stimson have the final authority for this vast control.

Senator HILL. Well, of course, you appreciate, far better I am sure than I do, the tremendous power vested in human hands when given

the power of priorities. The House Committee on Military Affairs, of which I was at one time a member, gave a lot of study to this question, looking forward to a situation such as confronts us today. We were never able to get any action on any legislation at that time, because we didn't have the public opinion up to the state that it is today. In times of dull, drab days of peace, no one wants to give anybody such vast power as the power priorities.

But as you know, it is a tremendous power and ought to be lodged with great care, and certainly in proper hands.

Mr. STETTINIUS. Senator, it is moving pretty satisfactorily and pretty smoothly at the present time. I think anything which would destroy the smooth, harmonious relationships that we are having at the present time, not only within O. P. M. but specifically with Mr. Henderson and his new organization, and with the Army and Navy Munitions Board—I think would be a stone in the road, and would be unwise.

Senator JOHNSON. Is there anything in this legislation which brings to an end this power at the end of whatever emergency we may be in, or does it continue on indefinitely in the hands of the President?

Mr. STETTINIUS. May I refer that question to Mr. Smith, sir?

The CHAIRMAN. Yes.

Mr. GEOFFREY SMITH (Assistant General Counsel O. P. M.). The original part of section 2 (a), which this bill is an amendment to, limits all of the powers in that section to the present emergency declared by the President in September 1939.

Senator SCHWARTZ. May I ask the witness a question?

The CHAIRMAN. Senator Schwartz.

Senator SCHWARTZ. There was testimony here that section 3 was inserted in the bill on the floor of the House, and the bill was, of course, in charge of Chairman Vinson, and he accepted the amendment and then the House passed it unanimously. That is the ordinary proceeding, probably?

Mr. STETTINIUS. That is right.

Senator SCHWARTZ. What I wanted to know was whether any representative of the Office of Production Management had ever had an opportunity to be heard before a committee of the House, to state their views on that section 3?

Mr. STETTINIUS. No, sir; that came in the late afternoon, like a thunder cloud in the sky, and we heard about it from a young gentleman who left the press gallery and telephoned us and congratulated me on the nice things that had been said about me. That was the first anyone heard about it in O. P. M., and certainly no representative of the Bureau of the Budget knew about it, or no representative of Mr. Henderson's group, and we can find no one in the Army and Navy at all who knew anything about Mr. Cox's proposal.

Senator HILL. In the hearings before the House Naval Affairs Committee, was this question raised at all; was there any evidence on it?

Mr. STETTINIUS. No, sir; it wasn't discussed.

Senator SCHWARTZ. When Chairman Vinson spoke here, he said that the 30 members of his committee were behind this section 3 amendment. Maybe, in the light of the testimony here this morning, they might not be so insistent on section 3.

Mr. STETTINIUS. That is possible, sir.

Senator SCHWARTZ. I hope it is.

Senator LEE. Of course it is tremendous power to give the President of the United States power of priorities, but I don't see in that any greater danger or any greater power than to give the President of the United States power to call men to the service, and as far as I am concerned, the human equation and human rights are greater than property rights. We have already done the others, why should we hesitate at this?

Senator AUSTIN. Well, we have done this, too.

Senator LEE. I mean hesitate about now making it legal.

Senator HILL. I don't think anybody is going to hesitate at this; it is just a question as to into whose hands you are going to lodge this. It is a question of whether you are going to have one man responsible for it, appointed by and with the advice and consent of the Senate, or whether you are going to have it as it is today.

Senator CHANDLER. For Senator Hill's benefit, inasmuch as he came in late, Messrs. Knudsen, Stettinius, Henderson, and Patterson have indicated that lots of time and effort have been spent in getting this situation to a point where it is now operating very effectively. They think that the loss of time and delay which will give an opportunity for disaster, ought not to be encouraged now, because they say they are going to get the job done and are getting along all right, so why should we interfere with it? That is the question that I think ought to be asked.

This seems to me to be, as far as the House is concerned, an afterthought, put in by a man in the late afternoon and was an amendment that had not previously been discussed. The Chairman of the Naval Affairs Committee said he agreed to it. If he can control the membership of his committee—maybe he can. I don't know—but it doesn't appear that it has been previously discussed in the House Naval Affairs Committee, and now he claims that the House wants it.

If they adopt it, or if we agree to it and it finally becomes law, it would leave it with the President that he "may" or "may not" do it. I am sure, if it gives opportunity for delay and expensive delay, which it does, that he would not change his present set-up in order to do it, because he doesn't have to do it even if the amendment is agreed to.

The CHAIRMAN. It would merely give the President the power to do that by legislative action in the appointment of a director, what you are already doing, isn't that correct?

Mr. STETTINIUS. That is correct.

The CHAIRMAN. And, Senator Hill, I might state for your information that prior to your arrival the Secretary of War's representative, Judge Patterson, the Under Secretary, has stated that under the present arrangement the O. P. M. was functioning admirably to the entire satisfaction of the Government itself, and all branches with which it deals, and then others who have testified here, including Mr. Knudsen, stated that they are desirous of having it remain as it is. Of course they are desirous of the bill that is before us now, but are opposed to the embodiment of the amendment which was offered in the House and which has been stated here was never discussed in the committee, despite the fact that Mr. Vinson, Chairman of the House Naval Affairs Committee, stated that all of the members of his committee, there being 30, are in favor of it.

Are there any questions?

Senator LODGE. I would like to have someone answer my question some time during the morning here as to the specific need for legislation.

The CHAIRMAN. Well, we will have Mr. Smith in a moment, just as soon as I ascertain whether or not any of the committee wish to direct any questions to Mr. Stettinius.

Senator JOHNSON. Right in line with Senator Lodge's question, at the present time no one has statutory authority to deny supplies of strategic materials to the civilian population, which you now need for defense purposes, is that not so? That is, if I want to use aluminum for some private purpose, you don't have the right to take that aluminum away from me, do you?

Mr. STETTINIUS. Yes sir, under this bill, if this bill is passed, we have that specific clear-cut power.

Senator JOHNSON. That is what I understood the purpose of the bill was.

Mr. STETTINIUS. That is, sir, one of the very important purposes of the bill.

The CHAIRMAN. Any further questions?

If not, I wish to thank you very much, Mr. Stettinius.

I think, in view of the fact that the question has been raised by Senator Lodge, while it is fresh in our minds we might as well have it answered now. So, Mr. Smith, will you be good enough to come around and make answer to the inquiries directed by Senator Lodge?

Mr. SMITH. Yes, sir.

STATEMENT OF GEOFFREY SMITH, ASSISTANT GENERAL COUNSEL, OFFICE OF PRODUCTION MANAGEMENT

Mr. SMITH. Mr. Chairman, I have here a prepared statement on behalf of the Priorities Division which does that. However, I should like to explain it verbally, and answer any questions. Meanwhile, if you wish to distribute this statement, here it is, sir.

The CHAIRMAN. If I may suggest, I think it would be well for you to answer Senator Lodge's question first.

Senator HILL. Mr. Chairman, I move that a copy of this be included in the record, the statement of Mr. Smith.

The CHAIRMAN. If there is no objection it will be, and I direct the official reporter of the committee to incorporate it in the record at the conclusion of Mr. Smith's remarks.

Mr. SMITH. Mr. Chairman, may I answer Senator Lodge's question in an orderly manner, by starting with the existing statute and showing wherein that lacks the powers we need, and how the bill fills in the gaps.

The present power is derived from a short clause in section 2 (a) of Public 671, which was a naval expediting bill passed last June. That clause limits priorities power to deliveries under Army and Navy contracts, and gives authority to grant priorities to those deliveries over deliveries for private account and for export, in the discretion of the President.

Now in the first place, when you limit that authority to Army and Navy contracts, you exclude all of the contracts for Great

Britain, Canada, and any other foreign government which are considered necessary to our defense.

In the second place, you exclude all contracts which, while directly necessary to defense, are not Army or Navy contracts. For instance, there is an acute shortage of magnesium. We need to expand plant facilities to make additional magnesium. It is just as important, if not more important, to get priority for the equipment that goes into those facilities to make magnesium, to make airplanes, as it is to grant priorities to the contracts for airplanes.

Senator THOMAS of Utah. If you get that priority right, will that right make it possible to overcome the decision of the R. F. C., for example, that since magnesium is so plentiful it is not a strategic material and therefore they can't lend any money on it?

Mr. SMITH. I don't think it gives us any authority over the R. F. C. in any way, Senator. It merely gives us the right to say that the equipment needed for a new magnesium plant gets priorities if and when the money is authorized to build that plant.

Now there is an additional type of contract which is not covered, but this type arises from time to time.

For instance, you need a water supply for a defense housing development near Norfolk, we will say. We can't now grant any mandatory priorities for that equipment.

Further, it may be essential to furnish supplies to our South American neighbors. Those contracts may have to be fitted into the picture with a priority status. We can't grant mandatory priorities on those today.

Keep this in mind, that once you start granting priorities certificates in any industrial area, then it is impossible to get prompt deliveries of anything without priority status. It may be that the ladder requires military first, some military higher than others; it may be that you want to fit in another contract somewhere in the middle. That other contract may not be an Army or Navy contract. As we have operated, we have never granted a particular rating to any contract without clearance with the Army and Navy Munitions Board, because it is up to them what they think is needed first in the military line.

Now without this mandatory authority, we have to merely grant voluntary certificates. Those voluntary certificates anyone can turn down at will. To date we have had success because most people are patriotic, but you never know when some fellow is going to come along and refuse to honor a purely voluntary certificate.

A couple of instances have come to my attention in the last 3 days, referred to our legal department, where the question has been raised, "Do we have to honor this?" The moment they raise that question, they are apparently questioning whether they will or will not honor it.

So much for the problem of mandatory authority.

There is one further element to that, however. If we issue non-mandatory certificates, which are purely voluntary in character, and a patriotic manufacturer complies, he is immediately putting his head in a noose with all of the other customers that he has to set aside in order to give priority to that contract, and he has absolutely no protection.

Now you can say, as we have said to him, "You must get their consent." Very often he can't get their consent. Even if he can, it

often entails extensive delays, and we think that in fairness to the manufacturer whom we ask to accord priorities to a given contract, he ought to have protection.

There is one further element. You will notice that this existing statute says, "Deliveries of material under all orders of the Army and Navy." It is not made clear here that that applies to subcontracts. We have so interpreted it and are operating on the assumption that it does, because it is completely ineffective to grant priority to the prime contractor for airplanes, unless at the same time you are able to permit the airplane maker to get his materials on a priority status, which he needs to go into those airplanes.

In fact, by and large, it is more important, because it is easy enough to get a priority status for the end product, they are military products that aren't made except by special concerns, usually, but when you get down to the supplies that now enter into those, all the way down to the raw materials, those things are being made in general for the public; the civilian customers of that manufacturer have their orders on his books, and it is more difficult for him to give that priority, without a mandatory order, than it is for the prime contractor.

So we have already interpreted this statute as giving us authority, as far as Army and Navy contracts are concerned, to the subcontracts. We want that interpretation of the statute clarified.

Senator LODGE. Mr. Smith, might I interpose there? This doesn't involve any new departure on the part of Congress, it is simply an amplification and a clarification of a commitment that Congress has already made, isn't it?

Mr. SMITH. That is correct, except it does include certain contracts under the mandatory authority.

We are now issuing certificates but they have no mandatory effect.

There is one further clause in this bill. So far I have only covered the (A), (B), and (C) of the bill, namely, lend-lease contracts, other defense contracts and subcontracts, or orders under those contracts, as well as the existing Army and Navy contracts.

The next paragraph expands our authority to this extent. We are now limited in granting priorities to any contract, any deliveries under a contract, over private account and export contracts. Now it is necessary, in a system of priorities, to be able to fit together all contracts in the ladder of importance. So we must have the authority to grant priority to the contracts that we think need it, not only over private contracts and export contracts, but also over other Government contracts, and the first sentence of the next clause gives us that authority.

The following sentence deals with allocations. Now again we have interpreted the bill as giving us some control over situations where a given essential material reaches the stage of acute shortage. We have interpreted that, and the legal department of O. P. M. has given its opinion, that this does authorize us now, when you reach an acute shortage stage, to take control of the distribution in order that you protect the needs of the military and the naval.

However, it doesn't give us authority, according to our interpretation, to foresee these shortages, and usually it is too late to deal with the shortage after it has reached the acute stage.

We need authority to deal with materials that we can see on the horizon reaching a shortage stage, and prevent their flowing out and disappearing into areas where we can't get them back, so that the shortage is made acute much more quickly than it might otherwise be.

This next sentence gives us that authority to foresee shortages and to control the distribution of materials that we are satisfied are going to be short, and try to prevent that shortage as far as we can, and at least minimize it.

Then the bill, in the sentence following that, gives us authority to get information. At the present time we feel that we probably have authority to ask industry to give us such information as we need to operate this priorities system, but there is no clear statutory authority. Anybody could question that authority by interpretation at any time, and therefore we have inserted in this bill the right to get information from industry, to inspect premises—that is important because we need to examine what inventories people have—and to require them to file such reports as we ask for.

The last sentence—I am now talking about the bill without the amendment, without the Cox amendment—makes it perfectly clear and without doubt that any manufacturer who complies with a priority order will not incur liability to other customers or anyone else for his compliance. There is some doubt in the law, and that goes even to the point of mandatory orders on that point, at the present time, and this will clarify that, without a doubt, and we feel that any man who complies with a Government order should have that protection against suit by other customers.

That is the entire bill except for the last clause, which makes it perfectly clear that the President has authority to delegate the discretions in this bill, and that last clause, of course, is the one which was eliminated by the substitution of the Cox amendment.

Senator LODGE. Would you say that the two principal increases in power were the increase in the categories to which the mandatory priorities would apply, and the provision giving you the right to get information?

Mr. SMITH. I think those are the two biggest, if you assume our interpretation is correct, that we now have the right to control the distribution of short materials, and keeping in mind that we carry that a step further, that we don't have to wait until the shortage is already acute, and deal with it in advance when it appears on the horizon.

Senator WALLGREN. Mr. Chairman, are we going to take a vote on this thing today?

The CHAIRMAN. We want to have an executive session after the testimony of Mr. Henderson, and perhaps one other witness.

(Discussion off the record.)

(The prepared statement submitted by Mr. Smith is as follows:)

MEMORANDUM SUBMITTED TO THE SENATE MILITARY AFFAIRS COMMITTEE, WEDNESDAY, MAY 14, 1941, BY THE PRIORITIES DIVISION OF THE OFFICE OF PRODUCTION MANAGEMENT STATING THE NEED FOR ADDITIONAL LEGISLATION TO CLARIFY THE PRIORITIES POWER AND SUGGESTING A STATUTORY PROVISION, AS CONTAINED IN H. R. 4534

The only express statutory authority for the exercise of priority powers is contained in the following clause appearing in section 2 (a) of Public, 671, Seventy-sixth Congress, third session,

"* * * and deliveries of material under all orders placed pursuant to the authority of this section, and all other naval contracts or orders, and all Army contracts and orders shall, in the discretion of the President, take priority over all deliveries for private account, or for export."

I. SUBCONTRACTS

Although this statutory provision refers only to contracts or orders of the Army and Navy, the words used are "under * * * all * * * contracts or orders * * *." The granting of priorities upon Army and Navy prime contracts calling for delivery of the ultimate military or naval finished product, such as ships, airplanes, tanks, etc., is only partially effective, because in most instances the important point at which to obtain the preference comes down the line in the subcontracts for parts, castings, supplies, and materials which enter into the finished product, and which are obtained by the prime contractor from others. Usually the producer of the finished military product is either engaged in the manufacture of such items only, or his contracts are of such size that the requisite priority is easily arranged, whereas the subcontractor of parts and materials is usually engaged in ordinary commercial manufacture, and to obtain priority for items entering into the military and naval orders requires that a specific preference be given in order to prefer deliveries over the orders of other customers.

Therefore, it is reasonable to interpret the Congress as having intended by use of the word "under" to include subcontracts.

Such subcontracts may reach through many manufacturers down to the producer of raw materials such as steel, aluminum, nickel, zinc, etc., and may involve an extension of the priority rating of the prime contract through a line of a dozen subcontracts down to the raw material.

Although this interpretation of the word "under" to permit the extension of preference ratings through the entire line of subcontracts to the raw material appears proper and is therefore the interpretation which has been approved by counsel for the Office of Production Management, it would seem wise to have this interpretation definitely confirmed by Congress by amplification of section 2 (a) quoted above.

II. NEED FOR MANDATORY PRIORITIES ON OTHER DEFENSE CONTRACTS

1. *British and other foreign contracts.*—British and other foreign contracts which by national policy have been included as necessary to the defense program of the United States are clearly not covered by section 2 (a) above. However, unless such contracts are to be postponed in all cases to Army and Navy contracts, it is necessary that they be given priority ratings on a basis of equality with Army and Navy contracts. In the case of important military and naval items, such as airplanes, tanks, guns, etc., the load of orders for the United States Army and Navy, if they alone have priority status, would virtually eliminate British and other foreign contracts for these items; the manufacturers capable of producing them would be completely preempted by the Army and Navy contracts as a result of preference ratings granted to the latter. Hence, in order to comply with the national policy of obtaining military and naval products for the British, the Priorities Division has of necessity granted preference ratings to such British and other foreign contracts on a basis of equality with the Army and Navy contracts of the United States. However, in so doing, they have not been able to issue such preference ratings upon a mandatory basis but merely upon a voluntary basis of consent and cooperation.

2. *Other Government contracts.*—Government agencies other than the War Department or Navy Department place contracts which are vital to the defense program; for instance, the Coast Guard, Geodetic Survey, Maritime Commission, Panama Canal, etc. To prevent such contracts from being postponed to the entire military and naval program, the Priorities Division has of necessity issued preference ratings to the contracts of these agencies for ships and other equipment; again it has not been possible to issue such preference ratings on a mandatory basis but merely on the basis of voluntary cooperation.

3. *Contracts to expand facilities, etc.*—Further, it is essential to the defense program in many instances to grant preference ratings to contracts which are in no sense military or naval or even Government, but which are nevertheless of prime importance to the defense program; for example, to obtain equipment

for an expansion of the production facilities for materials in which there is a shortage, viz., aluminum, magnesium, tin, rubber, etc.; or for additional power-producing facilities. Here again the Priorities Division has of necessity issued preference ratings in order that such important items in the defense program should not be postponed to the entire military and naval program; and such preference ratings have had to be on a voluntary basis.

4. *Other contracts of vital importance.*—Further, it may often be necessary to grant priority to a vital need which is not directly connected with defense in any sense and yet is essential to promote the defense program; for instance, the mechanical facilities for the water system in one of our large cities are notoriously old and in need of renewal. This city is a very important defense center. If by chance a serious break-down should occur in these facilities it would be vital to obtain new machinery quickly; the present overloaded condition of the industries producing such equipment would necessitate the granting of high priority ratings to the orders for such machinery; if this were not done, the delay in obtaining it as a result of other defense priorities certificates already outstanding might be disastrous. Here, although the direct defense is not involved, the granting of preference certificates may become essential.

Further, it may be of the utmost importance for the protection of our Western Hemisphere defense to see to it that contracts for vital requirements of our Latin-American neighbors are filled in instances of special importance.

It is impossible to predict in advance the exact classes of contracts which it may be essential to fulfill, and we must keep in mind that, with the impact of the defense program, it may be difficult or impossible to fulfill any particular contract without a preference rating in any of the many areas where our productive capacity is already loaded with defense contracts. At the present time none of the foregoing classes of important contracts can be given preference ratings which are effective, except insofar as the manufacturer is willing voluntarily to comply. It is necessary that this situation be remedied by giving authority to establish priorities for any contract which may be found to be necessary or appropriate to promote our defense.

It is apparent that reliance upon preference ratings for the foregoing four categories on a basis of voluntary cooperation has serious dangers.

At any time a manufacturer can refuse to honor such preference rating certificates and prevent the fulfillment of contracts which are in some instances as important to defense as the most important Army and Navy contracts. Further, this need happen, in all probability, only once to bring about widespread disregard of such voluntary certificates.

There is another serious disadvantage in these voluntary preferences: The manufacturer who recognizes them and gives priority to deliveries under them runs the risk of damage suits by any and all private customers if the deliveries to such private customers under contracts and orders already placed are postponed by the recognition of such voluntary preference ratings. To suggest that the manufacturer can protect himself by obtaining the consent of each private customer is an inadequate answer, since such private customers may, within their rights, refuse to grant such consent. Further, when preference ratings are issued on any large scale, as of necessity they must be for British orders and in some instances for other Government agencies and civilian orders, it is difficult, if not impossible, for the manufacturer in all cases to obtain such consent without serious delay.

Thus the issuance of such voluntary preference ratings places an unfair burden upon the manufacturer who is expected to recognize them. Each manufacturer may be putting his head in a noose which may not draw tight until 6 years hence when sued for damages at the expiration of the period of the statute of limitations.

III. SHORTAGE OF MATERIAL: ALLOCATION

The vast extent of the defense program has lead inevitably to serious shortages in the supply of certain important products and raw materials; for instance, machine tools, cranes, aluminum, magnesium, nickel, zinc, tungsten, etc.

It is essential in such instances to conserve and protect the supply for defense needs.

In such instances the priorities system based solely upon the granting of preference ratings to individual contracts has been found inadequate as a method of conserving the supply. Under the system of preference ratings for individual contracts the seepage of the preference ratings through subcontracts to raw materials is slow and ineffective.

It is slow because of the necessity for the gradual subcontracting through what often constitutes a long chain of subcontractors. This lag permits the rapid disappearance of great quantities of the short material into nondefense and often least important uses, frequently for excessive inventory hoarding.

It is ineffective because in many cases the raw material cannot be traced directly into the finished product. For instance, electric motors require the use of materials in which there is a shortage. Electric motors in many cases are standard products made in commercial lines and stocked for delivery; yet electric motors of such stock kinds are used in large quantities in the defense program. The manufacturer of electric motors, when he manufactures them, cannot know which particular motor or what particular part of his stock of motors will go into the defense program, and yet a very substantial part may do so and the manufacture of electric motors is as important to the defense program for that reason as if they were directly ordered by the Army or Navy.

This same difficulty appears in a myriad of products; for instance, small tools, optical instruments, and accessories and parts of all kinds. Although the system of issuing individual preference rating certificates cannot reach the raw materials for this type of product, it is nevertheless essential that the raw materials of which a shortage exists, shall be directed into this type of product.

Such being the case, the Priorities Division has found it necessary where there is a real shortage of a product or material to take control of the entire supply of such product or material, in order to protect the further needs of the defense program. This it has done by the issuance of blanket preference ratings directing that only defense orders, direct or indirect, be filled except as fractions of the supply are released.

When a shortage in a particular material or product occurs, and preference is granted for defense orders, the result inevitably is a shortage in the supply for civilian needs. For instance, in aluminum at the present time the balance available for civilian use, even if we assume that the rate of production will continue without interruption by sabotage, strike or other stoppage, is only 25 percent of the normal civilian demand. Where this situation occurs it is essential that such fractional supply be carefully allocated to those civilian needs which are most important in the maintenance of our domestic economy. If the distribution of such fractional supplies is left without control, it will be grabbed by the quickest purchaser or the largest purse, without regard to the importance of such purchaser's product in the domestic economy, and, further, such scramble for the available material leads to competitive bidding of the price into extraordinary price rises.

IV. INTERPRETATION OF SECTION 2 (A)

Upon the assumption that Congress must have intended section 2 (a), quoted above, to give effective authority, not only to obtain adequate priority for the Army and Navy orders, but also to deal with the results of the exercise of such power, section 2 (a) has been broadly interpreted by counsel for the Office of Production Management and by the Army and Navy. It has been interpreted not only to permit the granting of preference rating certificates to subcontracts and suborders under Army and Navy contracts or orders clear through to the raw materials, but also as follows:

"If the fulfillment of Army and Navy contracts and orders requires deliveries, present and prospective, which will absorb all of the presently available supply of any given material, then the statute warrants 'blanket' orders covering the entire supply of such material requiring the industry to fill none except Army and Navy orders except as released for other purposes.

"If, having reserved the entire current supply of any given material for Army and Navy orders, it is found to be of more benefit to the total defense program to utilize some portion of such material for selected civilian or foreign Government uses, the power to reserve the entire supply includes the power to release, by specific allocations or otherwise, such portions as seem necessary for such selected more important uses."

It is apparent that the foregoing requires a liberal interpretation of section 2 (a). Nevertheless, counsel has believed that this interpretation of the congressional intent is warranted, since the section is designed to protect the national-defense program during an emergency period.

However, even this broad interpretation does not give adequate authority to deal with the problem of shortages. The interpretation requires that the shortage already exist to such extent that the presently available supply is all required to fill present and prospective Army and Navy contracts. It is of the utmost

importance that steps be taken to conserve the supply before it reaches this point, which, in turn, requires that authority be given to deal with the uses of materials as soon as it appears definite that a shortage will occur. It usually requires many weeks before a plan for proper conservation of the supply of a material can be actually put into operation after it appears that a shortage will occur, and if there is no authority to deal with the situation until the shortage has occurred, then during the ensuing weeks when the plan is taking effect much time and great quantities of material may disappear to nonessential uses, excessive inventories, and hoarding.

V. INFORMATION

To deal adequately with essential materials and products needed for defense, it is essential to have complete data regarding the supply thereof and productive capacity therefor, and the requirements, both military and civilian, for such products and materials. This includes knowledge of inventories and rates of use which can only be obtained from industry itself.

Further, to allocate materials in which a shortage exists requires complete knowledge of the uses to which the customers of each producer will make of orders to be filled. The foregoing requires authority to obtain information from industry in all of these matters. There is at present no statutory authority to require such information to be furnished by industry, either under section 2 (a) or otherwise, in connection with the exercise of priorities.

VI. LIABILITY FOR COMPLIANCE WITH PRIORITY RATINGS

Orders placed by the armed services are in most instances not compulsory, but the manufacturer who accepts these orders knows that a preference rating will usually be assigned to such orders the moment he accepts them. He therefore knows in accepting such orders that he will in many instances be required to postpone or eliminate deliveries under other orders from civilian customers which are already on his books.

If such manufacturer is sued for damages by one of such other customers for default under such customer's contract, there is some legal doubt whether the manufacturer can plead impossibility of performance since he has accepted the military order with knowledge that it will require such default. It is important to give clear statutory protection to all manufacturers who comply with priority orders.

VII. PROPOSED STATUTORY PROVISION

It is evident from the foregoing that there is need for Congress to clarify its intent and to amplify the authority given by this meager statutory provision contained in section 2 (a) of Public, No. 671, of the Seventy-sixth Congress, third session, which forms the entire basis for the establishment of priorities for the defense program.

Therefore, it appears necessary to enact an amendment to said section 2 (a) to clarify and amplify the priorities authority to take care of the necessities as indicated in the foregoing memorandum. The language of such amendment should adhere to that used in section 2 (a).

The purpose of such amendment is sixfold:

1. To permit the assignment of mandatory priorities to contracts or orders of any foreign government which the President brings within the terms of the lease-lend bill.
2. To permit the assignment of mandatory priorities to any contract or order of a Government agency other than the Army or Navy or of private industry which is of vital importance to the defense program.
3. To make clear that mandatory priorities may be extended to subcontracts and suborders for parts, supplies, and materials which enter directly or indirectly into the fulfillment of the prime contracts which are subject to mandatory priorities.
4. To permit control of the distribution of those products and materials in which shortages appear by reason of the impact of the defense program and to permit the allocation of such products and materials to defense and to the most important civilian needs in preference to less-important uses.
5. To permit adequate information to be obtained to operate the priorities system.
6. To protect persons complying with priority orders against liability for damages.

The CHAIRMAN. I understand that the opinion of the members of the committee is that we should now take a recess until tomorrow morning at 10 o'clock and then continue with the testimony, because a number of the members are desirous of going on the floor of the Senate now.

Mr. HENDERSON. I believe that the statement which I will have to make, and the other witness, I think Mr. Smith, will be very short, and I think the record as far as the general presentation is concerned, has been made. I think we could conclude in very short order ourselves. Isn't that correct, Judge O'Brian?

Mr. O'BRIAN. Yes.

(Discussion off the record.)

The CHAIRMAN. I think, in view of that statement, we might conclude with the witnesses now, and then we can adjourn our consideration to a later executive session.

Senator BRIDGES. I move you we proceed to hear Mr. Henderson.

Senator HOLMAN. Did the present witness complete his testimony, Mr. Chairman?

The CHAIRMAN. Yes.

Mr. SMITH. I would be glad to add a clarification to Senator Thomas' question about his Senate bill.

When we learned of the introduction in the House and the Senate of that bill, we communicated with the Treasury Department, Mr. Bernard over there, who we understood was instrumental in drafting the bill, and he advised us that in view of our bill, which he had not known of, and we hadn't known of his, that he didn't believe that that section 2 was necessary, and that our bill covered the whole problem.

STATEMENT OF L. J. BERNARD, ASSISTANT GENERAL COUNSEL, TREASURY DEPARTMENT

Mr. BERNARD. You may recall, Senator Thomas, that I came over to your committee and Senator Taft asked the same question. He referred to this particular bill and wanted to know whether they were the same or different. I told him that this bill had been introduced after the bill which we recommended to Congress had been introduced, but it had moved faster in the House; and that I had just been before the House committee and recommended to them, in view of the fact that they had already reported it, that section 2 of our bill be deleted, and I also made that recommendation to you.

That is the Treasury Department's position. We have no desire to pursue section 2 of the other bill.

Senator THOMAS of Utah. You are working, then, in such a way that you can advise our committee about that section when you come before us again?

Mr. BERNARD. Yes, sir.

Senator THOMAS of Utah. Then I am perfectly satisfied, and I think the members of the committee are satisfied, if there is the coordination between these administrative groups.

Mr. BERNARD. The coordination is taking place now, Senator.

Senator THOMAS of Utah. That is all I am interested in.

The CHAIRMAN. Thank you very much, Mr. Bernard.

Mr. Henderson, will you state your full name and title to the official reporter?

Mr. HENDERSON. Leon Henderson, Administrator, Office of Price Administration and Civilian Supply.

STATEMENT OF LEON HENDERSON, OFFICE OF PRICE ADMINISTRATION AND CIVILIAN SUPPLY

Mr. HENDERSON. I wish briefly to underwrite and heartily endorse the position that has been taken by the other witnesses from the Army and Office of Production Manager.

This bill was worked out in conjunction with all the interested agencies, and had the full and unqualified support of those agencies, and it is a part, as Mr. Stettinius has said, of a working whole, a working whole that is operating under Executive orders, and those have been fitted together very compactly.

The Office of Price Administration and Civilian Supply has a responsibility running to priorities in this way. As Mr. Smith pointed out, it is necessary to make a determination as to the order of preference in case of a shortage of the residues that are available for civilian consumption. Now in our Executive order creating O. P. A. C. S., we inherited the consumer protection function carried on in the old Defense Commission, by Mr. Elliott. We continued the price administration function. We were assigned the civilian allocation function for the making of plans and programs; and we were given the general responsibility for civilian supply.

Now all of those—price, consumer protection, civilian supply, relate to this question of the distribution of scarcities once all of the defense needs have been satisfied.

Now we have worked out with Mr. Stettinius a very adequate basis for the submission of plans and programs, and it is quite essential that once those determinations have been made, that he has access to these powers and that we have access in certain limited ways to these powers, in order to give enforcement to them, and also to protect the manufacturers and processors from any legal liability by carrying out these orders.

Now, just take one jump back, the work on priorities was begun, you might say, in the studies by the Army and Navy Munitions Board, long in advance of the present emergency, as to the relationship existing between Army and Navy orders. When the Defense Commission came in, the relationship between purchasing, production, price, and priorities was seen, and we all joined in studies which led to the creation of the first Board, and when there was a bringing together of all these functions of production, purchasing, and priorities, they were lodged in one place.

Now, Mr. Stettinius has been in this organization from the very beginning, and has enjoyed the confidence of everybody concerned. I don't believe he has had any difficulty at all, as far as his operations in relation to the related functions to be performed are concerned.

I do see that there would be a severe dislocation if this particular function was taken out and made a statutory position.

Senator THOMAS of Utah. Wouldn't it be almost impossible to take care of the civilian needs if we had an establishment which was thinking only and primarily of the military needs at a given time?

Mr. HENDERSON. That is right, and that has been foremost in the thinking of Mr. Stettinius and Mr. Knudsen and myself from the very beginning.

We foresaw a period such as we are coming into now, where it will be necessary to take away from the civilian population a considerable portion of, say, strategic metals, and we wanted to be ready with the type of organization which would instantly make the programs to take care of saying who gets and who goes without.

Senator THOMAS of Utah. In other words, can we tell the Senate of the United States, when we take this bill in front of them, that the organization today is set up in such a way that the organization has in mind the man who is to be hurt by a priority rule, quite as much as the man who is to gain the advantage by a priority rule?

Mr. HENDERSON. That is right.

Senator THOMAS of Utah. Has every member of your group become convinced that an honest priority administration depends upon that attitude?

Mr. HENDERSON. Oh, yes. I want to nail that down, that that has been in the forefront of Mr. Stettinius' thinking since the early days of consideration of priorities, that was when the old priorities board was Messrs. Knudsen, Stettinius, and myself, and that was the thing we always had in mind.

The Army and Navy, in their priority work, had worked out their relationship, but here was this whole area of the civilian which had not been worked out, and which we inherited.

Mr. Stettinius has enjoyed the confidence of all of us in that work and has had it right in the forefront of his mind.

Senator THOMAS of Utah. There are some of us that have had to take the drops from the rich man's table, the crumbs that come because he saws off a little bit more bread than he can eat. I want to see those crumbs keep dropping down just as much as they can, and if we don't let those crumbs drop down, we are upsetting the very element of our society which should be foremost in our minds.

Mr. HENDERSON. Well, Senator Thomas, the President spelled that out in the Executive order which created my office. That order was submitted to Mr. Knudsen and to Mr. Stettinius and to the Secretary of War and the Secretary of Navy, in order that they should be brought together.

Senator THOMAS of Utah. And it has worked that way, and nothing in this law will interfere with that spirit?

Mr. HENDERSON. Not only will it not interfere, but it will make it possible to do it, which is most important.

Senator HILL. Of course, the defense comes first, and that, I take it, is primarily Mr. Stettinius' work, on the priorities, so far as the defense is concerned?

Mr. HENDERSON. Yes.

Senator HILL. And then when you meet the needs in the matter of defense, and come to this question of civilian supply and priorities there, would that largely fall under your head as Price Administrator?

Mr. HENDERSON. That is correct, as far as the determination of the plans and programs and the orders of preference, but it is very necessary, in our opinion, that a company deal with one source in Washington for administration of those priorities, for fitting them in, for policing, for seeing that they are intelligently done, seeing that

they are related to inventory control. Mr. Stettinius' division will do that, and we have worked out a very harmonious relationship. In fact, there has never been a single bit of difficulty on that score.

Mr. STETTINIUS. That is right.

The CHAIRMAN. Thank you very much, Mr. Henderson.

Are there any questions that any members of the committee would like to direct to Mr. Henderson?

If not, we will call Captain Anderson, of the Navy Department.

Captain, will you state your name to the official reporter?

Captain ANDERSON. Capt. A. B. Anderson. United States Navy, representing the Secretary of the Navy.

STATEMENT OF CAPT. A. B. ANDERSON, UNITED STATES NAVY, REPRESENTING THE SECRETARY OF THE NAVY

Captain ANDERSON. Mr. Bard, Assistant Secretary of the Navy, expected to attend this hearing and was prepared to attend it yesterday, but was called out of town last night to make an inspection trip.

The CHAIRMAN. We are glad to have you with us.

Captain ANDERSON. The Secretary is at a meeting of some shipbuilders this morning, and I could reach him by phone, but I have a statement from the Assistant Secretary that I can read.

The statement is submitted by Mr. Bard, Assistant Secretary of the Navy.

The Navy is in favor of the original bill as drawn, and is opposed to the amendment which segregates the priorities board from O. P. M. We cannot comprehend an efficient operation which will take care of the Navy's program unless production, inventory control, priorities, and so forth, are coordinated under one directing unit, which is now the case under O. P. M.

As we see it, if the Priorities Board were to attempt to operate by itself, it would have to duplicate, at considerable expense and loss of time, most of the departments now existing in O. P. M.

Priorities operations are dependent upon production control, price control, inventory control, and many other factors, and it could not operate without the close coordinated contact with these supporting agencies, any more than your lung and heart can function outside your body.

Under the present system, the Navy receives prompt consideration of its requirements, and full cooperation in the solution of its problems of production in priorities, and we can see no good reason for a change in the present set-up, which is almost sure to cause confusion and delay at this crucial period in the development of the Navy's program.

Now for myself, I might elaborate a little bit on that. It will only take a minute or two.

It looks to me as if the question before this committee is rather simple and clear-cut.

This act here, Public, No. 671, of which this is an amendment, was to expedite national defense with the speed-up bill, and section 2 of that act gave the Army and Navy orders priority over all other orders.

Now this amendment, H. R. 4534, was introduced solely for the purpose of clarifying and broadening the features of this section so that

priorities can be placed on other orders, and that these other orders be made mandatory as the Army and Navy orders now are, instead of voluntary.

I believe that this amendment is not the proper place to interject machinery whereby priorities are to be administered. This machinery is already set up in the Division of Priorities of the O. P. M.

The Navy Department feels that the amendment to H. R. 4534 is not required, that is, the Cox amendment is not required, and if left in it may cause confusion and consequent delay in the delivery of materials for national defense.

The Navy also believes that it is amply protected by the approved regulations of the O. P. M. under which the Division of Priorities is operating.

Senator THOMAS of Utah. You are in favor, then, of the bill as it was originally introduced, without any change at all?

Captain ANDERSON. Yes, sir; entirely as it was originally introduced. I have talked to the Chief of Naval Operations about it, and also to the Assistant Secretary, Mr. Bard, and as the bill was originally introduced it was satisfactory, and that is the way they would desire to have it maintained.

Senator WALLGREN. The original bill is the same as the House bill, with the exception of section 3; is that the only change in the original bill?

The CHAIRMAN. The only change in the original bill was the introduction and passage of the Cox amendment.

Senator GURNEY. And the deletion of the President's authority to appoint.

The CHAIRMAN. Yes.

Senator AUSTIN. There was a substitution, and we want to put back the thing that was eliminated.

Senator WALLGREN. I see that, I have a copy of the original bill now.

Senator AUSTIN. The very last sentence was stricken out and section 3 inserted in lieu thereof. The witness likes the bill and recommends the bill restored to its original substance.

The CHAIRMAN. The portion struck out is on page 3 beginning with "The President" on line 6, running through line 11.

Are there any questions that any of the members of the committee would like to direct to Captain Anderson?

If not, we thank you very much, Captain.

We will now hear from Commander Sickel of the Army and Navy Munitions Board.

Commander H. G. SICKEL (Army and Navy Munitions Board). I have no statement. I have been working in the administration of priorities, within the Army and Navy Munitions Board since the beginning, and I am simply here in case there are any questions that you care to ask me.

Senator AUSTIN. From your point of view, do you regard the bill as originally presented as adequate?

Commander SICKEL. Yes: I am in agreement with the other witnesses in the Army and Navy, that the amendment to the original bill is undesirable, and that the bill should be restored to its initial condition.

The CHAIRMAN. Thank you very much, Commander Sickel.

Mr. O'BRIAN. The Office of the Budget have handed me letters addressed to them, in reply to inquiries made by them of the Secretary of War, Mr. Stimson; Mr. Knudsen, and Mr. Hillman; Mr. Henderson, and Mr. Bard, in which each of these letters contains a specific statement of the attitude of the writer, all of them favoring the passage of the bill in its original form and objecting to the so-called Cox amendment.

With your permission, I would like to file those.

The CHAIRMAN. I think they ought to be made a part of the record, and if there is no objection we will ask the official reporter to embody these letters in the record.

(The letters above referred to are as follows:)

HONORABLE HAROLD D. SMITH,

Director, Bureau of the Budget,

Washington, D. C.

WAR DEPARTMENT,

Washington, May 12, 1941.

DEAR MR. SMITH: This will acknowledge the receipt of the letter from your office dated May 9, 1941, requesting the views of the War Department regarding the provisions of H. R. 4534, a bill "To amend the act approved June 28, 1940, entitled 'An act to expedite the national defense, and for other purposes,' in order to extend the power to establish priorities and allocate material," in the form in which it passed the House on May 8, 1941, and especially with respect to the amendment which was sponsored by Representative Cox (Congressional Record, vol. 87, No. 86, May 8, 1941, p. 3833).

The War Department favors the enactment of the bill, H. R. 4534, in the form in which it was originally introduced by Representative Vinson.

The War Department believes that the amendment sponsored by Representative Cox and passed by the House is undesirable for the following reasons:

(a) It would materially change the working arrangement between the Office of Production Management and the Army and Navy Munitions Board which has been developed over a period of many months and which is now operating satisfactorily. Such a rearrangement under present critical conditions would be certain to cause confusion and to slow up the defense program.

(b) It would single out from the Office of Production Management for a mandatory type of organization a single important function of that office, which for efficient operation should remain an integral part of the Office of Production Management.

(c) It would freeze the organization of the priority function into the form specified in the amendment and destroy the flexibility which all agencies set up to handle emergency situation should have in order to permit them to adapt themselves to emergency conditions which cannot be foreseen. The history of the defense organization over the past few months has emphasized the necessity for such flexibility.

(d) It would assign to the Army and Navy Munitions Board functions which are beyond its proper scope of activity as visualized in the Industrial Mobilization Plan. (The advice of Mr. Baruch and others who had experience in the World War in this regard was to leave industrial questions to civilians and military matters to the armed services. The Cox amendment would violate this sound principle.) For example, the control of commodities, such as rubber, in which the civilian interest is predominant, is one which should be vested primarily in the Office of Production Management with such assistance from the Army and Navy Munitions Board as may be needed to insure that the interests of the armed services are adequately presented and considered.

Under the present working arrangements between the Office of Production Management and the War and Navy Departments, priority in delivery of finished munitions to meet strategic plans is determined solely by the services themselves. The Office of Production Management then assists in meeting the desired schedules of delivery by application of the necessary industrial priorities to materials, equipment, etc. This arrangement is now operating satisfactorily and would be disturbed by adopting the Cox amendment.

Sincerely yours,

HENRY L. STIMSON, *Secretary of War.*

OFFICE OF PRODUCTION MANAGEMENT,
Washington, D. C., May 9, 1941.

H. R. 4534.

HAROLD D. SMITH, Esq.,
Director of the Budget.

DEAR MR. DIRECTOR: At the request of the Office of Production Management the above bill was introduced for the purpose of extending its powers to establish priorities and allocate material. On the debate on the passage of this bill yesterday the House amended it by adding to the bill a new "subparagraph (3)," copy of which is herewith enclosed.

The original bill as introduced had been carefully considered by and had received the formal approval of the Departments of War and Navy, the Office of Price Administration and Civilian Supply, and of your office of the Budget.

The immediate effect of this amendment is to establish a new governmental agency separate and distinct from all existing Government agencies. The function of granting priorities would be entirely removed from the Office of Production Management.

We desire to express our view that the entire amendment adding this new paragraph "(3)" is inadvisable. The creation of this agency will necessitate a vital change in the Office of Production Management by thus withdrawing from its integrated control one of the functions most important to defense. The three functions of priorities, production, and purchasing, vitally essential to the successful operation of the defense program, now are combined in the Office of Production Management and operate under the supervisory control of its council. This council consists of four members, the Secretary of War, the Secretary of the Navy, the Director General, and the Associate Director General. All of the functions performed by the Office of Production Management are operated in close integration with the Departments of War and Navy.

This amendment does not appear to be in conformity with the President's desire to keep a certain flexibility at this time in the organization for defense. It isolates and crystallizes, by statute, the single function of administering priorities, without giving consideration to the close relationship between it and the other functions essential to the defense production program. Adequate production cannot be obtained without the aid of priorities, and it is essential that both production and priority be subject to the supervisory control of one central authority. Under the proposed amendment of section 3 of this bill, production by the Office of Production Management would be made dependent, wherever priorities were necessary, upon the judgment and approval of a wholly independent agency.

The present arrangement has worked efficiently. It has resulted in harmonious and efficient functioning of the Priorities Division, both in relation to the other divisions above named and also in relation to the other agencies of Government. The proposed amendment would alter the present operating set-up of the Office of Production Management and would inevitably have a disrupting effect upon the close relationships and contacts with the representatives of other agencies of Government which have been established over a course of many months. Delay in the defense program will necessarily result.

Mr. Stettinius, the Director of Priorities in the Office of Production Management, is likewise opposed to the enactment of the amendment.

Yours very truly,

WILLIAM S. KNUDSEN,
Director General.
SIDNEY HILLMAN,
Associate Director General.

Enclosure.

AMENDMENT TO VINSON BILL

Page 3.—Strike out "the President" in line 6.

Strike out line 7-10 inclusive and insert:

"3. The President may exercise any power, authority, or discretion conferred on him by this section through a Director of Priorities (in this paragraph called the Director) whom he is authorized to appoint by and with the advice and consent of the Senate. The Director shall receive compensation at the rate of \$12,000 per annum and is authorized to appoint and fix the compensation of such officers and employees as may be necessary to carry out his powers under this section. The Director shall exercise his powers under paragraph

1 and 2 of this section with the assistance of industry committees which he is hereby directed to establish and utilize and upon the basis of information furnished to him by such industry committees and upon the basis of such other information as he deems pertinent. Such powers shall be exercised by the Director only after prior approval of such exercise by the joint Army and Navy Munitions Board."

MAY 13, 1941.

MR. HAROLD D. SMITH.

Director, Bureau of the Budget,

Washington, D. C.

DEAR MR. SMITH: H. R. 4534 was recently amended on the floor of the House in such manner as, in my judgment, to nullify the usefulness of the bill and seriously to impair the defense effort.

As you are aware, the bill as reported by Mr. Vinson of the House Naval Affairs Committee represented a joint effort on the part of the Office of Production Management and the Office of Price Administration and Civilian Supply, with the aid and cooperation of the Bureau of the Budget, so to clarify the President's authority as to enable him more effectively to coordinate the defense program through the application of priorities. Office of Production Management, through its Division of Priorities, is concerned with priority for defense needs; Office of Price Administration and Civilian Supply, through its Division of Civilian Allocation, is concerned with the equitable disposition of the residual supply of goods and commodities after defense needs have been satisfied.

The net result of the amendment is to create another defense organization, at the head of which there will be a Director of Priorities, and to vest in the Director full responsibility with reference both to military priorities and civilian allocation. The Director is further required to establish and utilize industry committees, and is subject to the supervision and veto of the Joint Army and Navy Munitions Board.

I believe the amendment is objectionable for the following reasons:

1. It will seriously disrupt and delay the defense program. Through careful process of trial and error a defense organization is gradually being evolved. As a result of months of experience and after very careful consideration and extended discussions, the priorities function was shared between Office of Production Management and Office of Price Administration and Civilian Supply. Office of Production Management was recognized as a basic defense organization, charged, among other things, with responsibility for production and purchasing, and given the priority power in order that it might obtain defense materials as and when they were needed. The priorities power was thus recognized as integral to the functions of production and purchasing, and integrated into the organization charged with these responsibilities. Office of Price Administration and Civilian Supply, on the other hand, was established not as an adjunct to the armed services, but as a guardian of the civilian economy, and charged with responsibilities only in the field of civilian welfare. These two organizations are today working together closely and cooperatively and, after long consultation, have established useful and efficient procedures for the exercise of their authority. The proposed amendment will not only disrupt the existing harmonious relationship between Office of Production Management and Office of Price Administration and Civilian Supply, but hamstring both Office of Production Management and Office of Price Administration and Civilian Supply by depriving them of powers without which they cannot operate effectively.

2. It treats with the organization of only a small part of the existing defense structure. For obvious reasons, the defense organization must be flexible and quickly adaptable to ever changing conditions and circumstances. To freeze the priorities control without touching upon the many other vital defense problems will endanger the entire structure, which thereafter must mold itself to a single and, in some circumstances, relatively subordinate function.

The amendment thus gives the Division of Priorities within Office of Production Management an independent statutory position not shared by the Division of Production or the Division of Purchases, enlarges its jurisdiction to include a function wholly unrelated to priorities for military needs, and severely narrows the responsibility of Messrs. Knudsen and Hillman within Office of Production Management.

3. It will undermine the effectiveness of the antitrust laws without aiding the program for defense. Industry committees for advisory purposes are per-

fectly lawful, and indeed are constantly used by both Office of Production Management and Office of Price Administration and Civilian Supply. A direction that such committees be utilized, however, in substance subordinates the responsible Government authority to groups whose interest may at times be antiethical to the public interest and to the interests of national defense.

4. It will burden the armed services with responsibilities which they are not equipped to assume. So far as priorities for defense materials is concerned, the relationship already established between Office of Production Management and the Army and Navy Munitions Board has, so far as I am aware, operated in an eminently satisfactory manner. So far as responsibility for civilian allocation is concerned, neither the Army nor the Navy is able or willing to assume the obligation of allocating the residual supply of materials and commodities among all the many competing civilian demands. This task is extremely difficult, and if it were added to the already enormous responsibilities of the armed services, the defense program would either founder or vital civilian interests would be neglected.

I trust you will do everything in your power to have the amendment withdrawn and the bill enacted in its original form. This, I understand, is the unanimous conclusion of every organization which will be concerned with the bill including the War Department, the Navy Department, Office of Production Management, and Office of Price Administration and Civilian Supply. I am certain, moreover, that when these considerations are brought to the attention of the Congress, both Houses will be glad to cooperate with us.

Yours sincerely,

LEON HENDERSON,
Administrator.

CC—John O'Brien, Office Production Management,
Wayne Coy, State Department.

THE ASSISTANT SECRETARY OF THE NAVY,

Washington, May 10, 1941

DIRECTOR OF THE BUREAU OF THE BUDGET,

Executive Office of the President, Washington, D. C.

SIR: In response to your request for a statement of the views of the Navy Department with respect to H. R. 4534 which was passed by the House of Representatives on May 8, 1941, and the amendment thereto providing, among other things, for the creation of the office of Director of Priorities, the Navy Department is in favor of the bill as originally introduced and not in favor of such amendment. It is the further view of the Navy Department that the function of priorities control should not be separated from control of production.

Respectfully yours,

RALPH A. BARD.

Mr. O'BRIAN. Your record, as it now stands, I think, does not fully explain the method of operation, the machinery, within O. P. M., which is designed to protect the exercise of these powers, and define the authority of the various people dealing with them, and particularly the functions of the Advisory Board on Priorities which is appointed by the President.

Without reading it, I have a brief statement here of five pages confined solely to a description of what the procedure is when a priority is applied for; where it goes, who is consulted, who exercises the final authority, in what cases the four at the top review the action, and so forth, and with your permission I would like to simply file that.

Senator AUSTIN. We would like to have that in the record.

Mr. O'BRIAN. This has annexed to it, as an exhibit, the regulations prescribed by O. P. M. for the procedure, and these regulations have been formally approved by the President. I would also like for all of those to go into the record as descriptive and explanatory of

the unusual care that is exercised in dealing with these very large powers.

The CHAIRMAN. Without objection, that will go in the record.

(The statement of John Lord O'Brian above described is as follows:)

STATEMENT MADE BY JOHN LORD O'BRIAN, GENERAL COUNSEL OF THE OFFICE OF PRODUCTION MANAGEMENT

The original bill, H. R. 5434, was prepared by the Office of Production Management and introduced at its request by Representative Vinson of Georgia. That bill had been submitted to, and considered by, the Departments of War and Navy, the Office of Price Administration and Civilian Supply, and the Office of the Budget, and had been approved by each of those agencies.

On passage in the House, an amendment was offered to the bill by Representative Cox of Georgia. This amendment was adopted and is contained in that part of the bill before you designated as paragraph 3.

We desire to explain to your satisfaction the reasons for asking for the original bill. Second, we request you to strike out of the present bill the amendment offered by Representative Cox and to pass the measure in its original form.

For the purpose of simplifying the situation, may I explain briefly the organization of the Office of Production Management and the procedure which has been followed up to now in the granting of certificates of priority.

The Office of Production Management, familiarly known as O. P. M., consists of four members—the Secretary of War; the Secretary of the Navy; the Director General, Mr. Knudsen; and the Associate Director General, Mr. Hillman. These four men compose the council of O. P. M., which meets regularly at least once a week, and often at more frequent intervals. O. P. M. is in reality a super-servicing agency for the armed services and the Maritime Commission. O. P. M. was set up by the President in an Executive order dated January 7 of this year. This order undertook to combine under the unified authority of O. P. M. all of the functions of national defense intimately associated with production. The order provided for three divisions of administration, namely, Purchases, Production, and Priorities. By another order recently made a Labor Division was added to these three. Upon its organization the O. P. M. appointed Mr. Edward R. Stettinius, Jr., as Director of the Priorities Division; Mr. Donald Nelson as Director of the Purchases Division; and Mr. John D. Biggers as Director of the Production Division. Mr. Isador Lubin is at present the Acting Director of the Labor Division. The work of these Divisions is closely interrelated. That is particularly true of Purchases, Production, and Priorities.

Up to now the administration of the so-called priorities power has been handled in this way:

The President by his Executive order delegated to O. P. M. all of his authority to grant priorities under section 2 (a) of the Walsh-Vinson Act. The O. P. M. council of four has prescribed the regulations and procedure to be followed in granting certificates of priority. These regulations have been formally approved by the President. The council has appointed Mr. Edward R. Stettinius Director of Priorities, granted to him its authority in that field, and his appointment has been formally approved by the President. Under the present procedure the Army and the Navy, through the Army and Navy Munitions Board, work in the closest cooperation with the Director of Priorities. Under authority from him and under his supervision they issue certificates of priority for contracts involving a variety of military and naval needs. They also advise him on other additional requirements. Individual contractors submit requests for a vast number of certificates. On receipt of such requests the Director of Priorities and his staff, proceeding under the regulations laid down by the O. P. M. council, study them in relation to all other needs for the same material and also the available sources of supply and, if satisfied, issue the necessary certificates.

Where a shortage of a given material occurs and it becomes necessary to consider directing the distribution of the supply of that material to protect the program, the Director, after reaching a tentative decision, consults with the Advisory Priority Board, which meets at least once a week. This Board was appointed by the President. It consists of Mr. Knudsen and Mr. Hillman

sitting ex officio; Mr. Biggers, Director of Production; and Mr. Nelson, Director of Purchasing; and Mr. Stettinius, Director of Priorities, sitting as chairman. With this Board the following sit as consultants, viz: The Under Secretary of War, the Under Secretary of the Navy, the Assistant Chief of Staff of the Army, Captain Anderson of the Navy, representatives of the office of Price Administration and Civilian Supply, and of the Maritime Commission. Following such a consultation, the Director reports his proposed action to Mr. Knudsen, who, in turn, reports the matter to the O. P. M. Council for information, advice, or ratification. While the members of the Council ordinarily do not deal with minor matters of detail, they do give careful consideration to matters of general policy and larger matters generally. Examples of these are such matters as industry-wide priority control, the control of inventories, matters of priority in aircraft production, etc. But it is the Director of Priorities who in all cases issues the orders or grants the certificate of priority.

Legal questions frequently arise in connection with the granting of these certificates. These are dealt with by the Legal Division. All matters of legal policy and all other legal questions of importance are reviewed by the General Counsel of O. P. M. himself before any action is taken.

This procedure, which has grown up as the result of trial and experience, at the present time is operating smoothly and expeditiously. The connection between Mr. Stettinius and the members of his staff with the Director of Production and the Director of Purchases and their respective assistants is an intimate one. All of them are constantly in touch with the representatives of the War and Navy Departments, the Office of Price Administration and Civilian Supply, and of the Maritime Commission.

OFFICE OF PRODUCTION MANAGEMENT

REGULATION NO. 3—DEFINING THE STATUS OF THE DIVISION OF PRIORITIES IN THE OFFICE OF PRODUCTION MANAGEMENT AND PRESCRIBING ITS DUTIES AND FUNCTIONS

Whereas Executive Order No. 8629, dated January 7, 1941, created the Office of Production Management and charged it with the duties, among others, to determine when, to what extent, and in what manner priorities shall be accorded to deliveries of material pursuant to the authority of section 2 (a) of the act entitled "An act to expedite national defense, and for other purposes," approved June 28, 1940, and to perform the functions and exercise the authorities vested in the President by section 9 of the Selective Training and Service Act of 1940; and

Whereas said Executive order established within the Office of Production Management a Division of Priorities in charge of a Director appointed by the Office of Production Management with the approval of the President, and a Priorities Board to act as an advisory body on priorities; and

Whereas the Office of Production Management, with the approval of the President, has appointed Edward R. Stettinius, Jr., as Director of the Division of Priorities; and

Whereas the public interest requires that provision be made to insure the prompt delivery of material essential to the national defense:

Now, therefore, by virtue of the authority vested in the Office of Production Management by said Executive order, it is hereby ordered that—

1. The Director of the Division of Priorities, who shall be known as the Director of Priorities, shall execute and administer the authorities, duties, and responsibilities of the Office of Production Management pertaining to section 2 (a) of the act entitled "An act to expedite national defense and for other purposes," approved June 28, 1940, and otherwise pertaining to priorities, mandatory orders, and allocations.

2. The Director of Priorities shall have authority to propose action under section 9 of the Selective Training and Service Act of 1940, and all proposals for such action, whether originating with him or with the directors of other divisions or with other officers of the Government, shall be submitted by the Director of Priorities, with his recommendation, to the Director General, the Associate Director General, the Secretary of War, and the Secretary of the Navy, constituting the Council of the Office of Production Management, for such directions as they may give.

3. To effectuate and carry out the authorities, duties, and responsibilities assigned to him herein, the Director of Priorities is hereby authorized:

(a) To establish such organization as the Director of Priorities may deem necessary to the adequate execution of the functions of the Priorities Division, including the employment of personnel and the creation and appointment of priority groups and priority committees for material or groups of material; and to make provision for administrative services to the Priorities Board when it is carrying out its functions under said Executive order.

(b) To assign or provide for the assignment of preference ratings to all contracts and subcontracts and material directly or indirectly necessary to the defense program; on ultimate military items, the Director of Priorities shall be guided by categories of military preferences, including the modification of existing categories, as set forth from time to time by the Army and Navy Munitions Board.

(c) To issue or provide for the issuance of all preference or priority certificates or orders to contractors, subcontractors, and others supplying material directly or indirectly necessary to the defense program.

(d) To utilize and supervise, in accordance with procedures devised with the concurrence of the Army and Navy Munitions Board, the services of the contracting and procurement officers and inspectors of the War and Navy Departments, in connection with priorities and related matters.

(e) To validate and extend, to such extent as he may define, action with respect to priorities and related matters heretofore taken by the former Administrator of Priorities and Priorities Board, pursuant to authority of Executive Order No. 8572, dated October 21, 1940, and amended by Executive Order No. 8612, dated December 15, 1940, and revoked by Executive Order No. 8629, dated January 7, 1941, or by the Director of Priorities or by the Army and Navy Munitions Board or by contracting and procurement officers and inspectors of the War and Navy Departments.

(f) To issue, modify, and amend, with the advice of the Priorities Board and with the approval of the Director General acting in association with the Associate Director General of the Office of Production Management, such rules and regulations as may to the Director of Priorities seem necessary or desirable in the execution of the functions of the Division of Priorities, and subject to all Executive and administrative orders of the President and all regulations of the Office of Production Management.

(g) To establish preferences with respect to indirect defense material, and domestic and foreign material, pursuant to such agreement and cooperation as may be necessary.

(h) To make allocations, establish procedures, adopt devices, measures, and plans, and generally to take all lawful steps necessary or appropriate to bring about prompt delivery of direct and indirect defense material, and other domestic and foreign material where deemed important to the defense program.

4. The Director of Priorities shall exercise the authorities, duties, and responsibilities assigned to him herein subject to the jurisdiction and control of the Director General acting in association with the Associate Director General; and he shall obtain their approval of the creation of the principal administrative subdivisions and priority groups within the Division of Priorities.

5. The Directors of Priorities shall formulate plans, and shall negotiate, and with the approval of the Director General acting in association with the Associate Director General shall establish procedures to insure the effective coordination of activities of the several departments, agencies, and offices of the Government which relate to priorities.

6. The Director of Priorities shall have authority to designate an assistant or deputy director to serve as acting director of priorities in his absence or inability to act, subject to the approval of the Director General acting in association with the Associate Director General.

7. The Director of Priorities shall be entitled, in cooperation with or through the Bureau of Research and Statistics, to obtain from the Departments of War and Navy, information necessary or appropriate to enable him to exercise his authorities, duties, and responsibilities hereunder.

8. The Director of Priorities shall make such regular and special reports of his actions pursuant to this regulation as may be required by the Office of Production Management.

9. The Priorities Board shall serve as an advisory body to the Director of Priorities and shall render advice to him and make findings and recommendations whenever he deems it necessary or advisable to request it to do so. The Director of Priorities shall consult with and request the advice of the Priorities Board with respect to all proposals for action under section 9 of the Selective Training and Service Act of 1940 and with respect to any proposed mandatory order covering an entire industry.

WILLIAM S. KNUDSEN,
Director General.

SIDNEY HILLMAN,
Associate Director General.

HENRY L. STIMSON,
Secretary of War.

JAMES V. FORRESTAL,
Acting Secretary of the Navy.

Approved:

JOHN LORD O'BRIAN,
General Counsel.

Attest:

HERBERT EMMERICH, *Secretary.*

Approved:

FRANKLIN D. ROOSEVELT,
The White House, March 8, 1941.

Mr. HENDERSON. May I point out one thing that may have been missed?

The CHAIRMAN. Certainly.

Mr. HENDERSON. Judge Patterson spoke of the difficulties of incorporating, by statute, a reference to a body similar to the Advisory Commission, which has to be continued to pass on certain items. Now, that could be done in the excess-profits bill, could have been done last year, because there is a statutory status for the Advisory Commission to the Council for National Defense, but in the amendment that was submitted by Congressman Vinson today, he was going to make the Priorities Director subject to O. P. M.

I would like to call attention to the fact that O. P. M. does not have a statutory status at all, that it is a creature of an Executive order.

The CHAIRMAN. Thank you very much, Mr. Henderson.

There being no other witnesses, the committee will now go into executive session.

We want to take this opportunity to thank all you gentlemen for coming up here and giving us the benefit of your testimony.

(Whereupon, at 12:30 p. m., the committee retired to executive session.)

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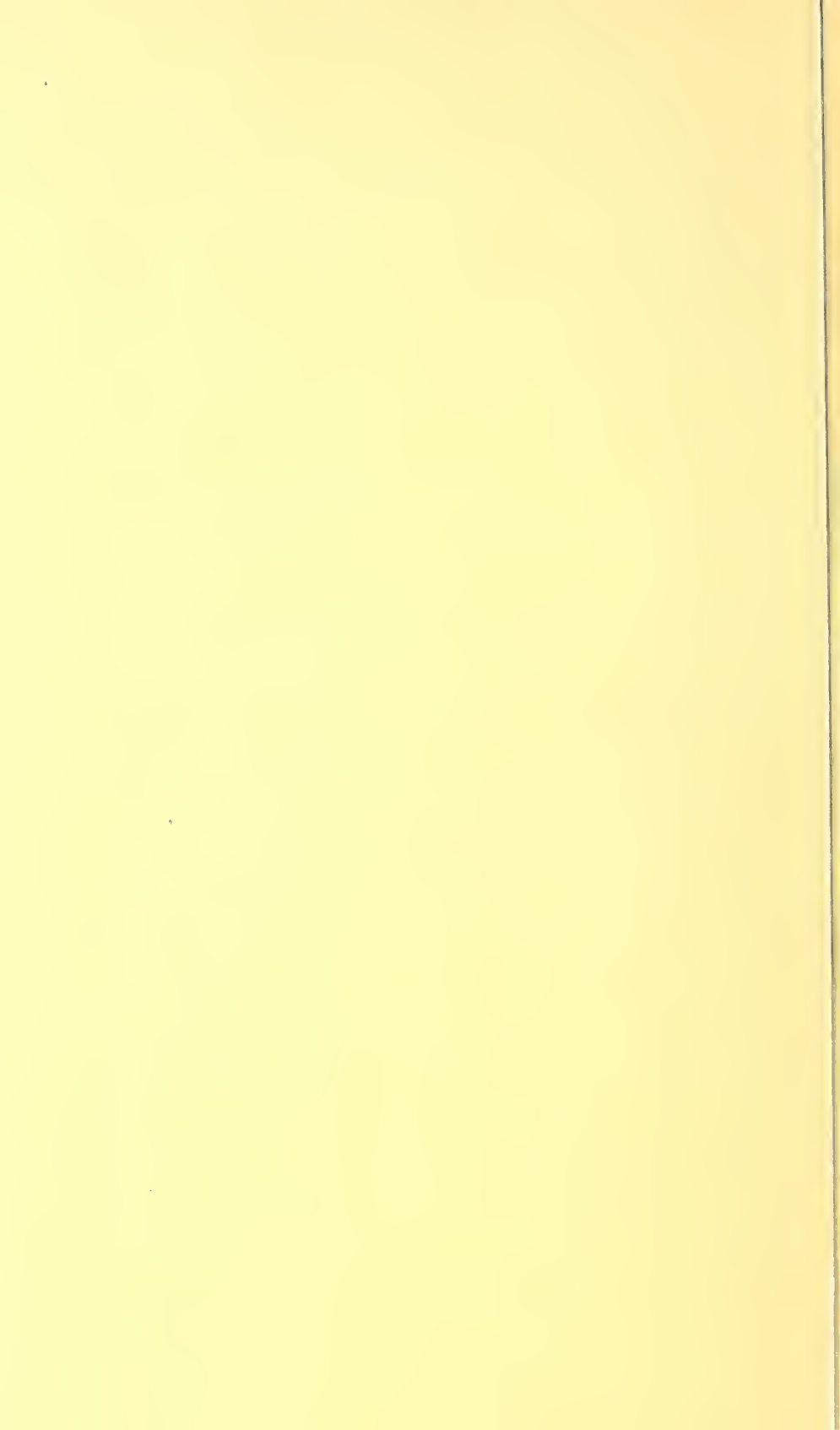
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AMENDING THE ACT APPROVED JUNE 28, 1940, ENTITLED "AN ACT TO EXPEDITE THE NATIONAL DEFENSE, AND FOR OTHER PURPOSES," IN ORDER TO EXTEND THE POWER TO ESTABLISH PRIORITIES AND ALLOCATE MATERIAL

MAY 15 (legislative day, MAY 8), 1941.—Ordered to be printed



Mr. HILL, from the Committee on Military Affairs, submitted the following

REPORT

[To accompany H. R. 4534] 

The Committee on Military Affairs, to whom was referred the bill (H. R. 4534) to amend the act approved June 28, 1940, entitled "An act to expedite the national defense, and for other purposes," in order to extend the power to establish priorities and allocate material, having considered the same, report favorably thereon and recommend that the bill do pass.

OUTLINE OF PRIORITIES SYSTEM

The President delegated to the Office of Production Management, by Executive Order No. 8629, dated January 7, 1941, his authority to establish priorities under section 2 (a) of Public, 671 (76th Cong., 3d sess.). The President, in the Executive order, further provided for the establishment within the Office of Production Management of a Division of Priorities, in charge of a Director of Priorities, and thereafter E. R. Stettinius, Jr., was appointed Director of Priorities by the Office of Production Management, with the approval of the President.

The Office of Production Management, by its Regulation No. 3, dated March 7, 1941, prescribed the duties and functions of the Director of Priorities and of the Priorities Division under his direction.

Regulation No. 3 of the Office of Production Management, which was specifically approved by the President, charges the Director of Priorities and the Priorities Division with broad responsibility for the establishment of a priorities system to bring about prompt delivery of defense material and other material important to the defense program.

The Director of Priorities, acting under the foregoing authority, has been administering the priorities system in cooperation with the armed services.

The Army and Navy Munitions Board (a joint body) establishes the order of importance of military and naval needs by so-called Directives. These Directives specify the schedule of ratings to be applied by types of contracts for military and naval material.

The Army and Navy Munitions Board also specifies a Priorities Critical List, subject to the approval of the Director of Priorities, which list contains some 200 items to which the ratings may be applied.

The Director of Priorities issues four types of preference rating certificates. One type of certificate is for use entirely for Army and Navy contracts, and subcontracts for fulfillment thereof, and are mandatory in form. These are assigned to specific contracts by the field officers of the Army and Navy. The other three types of certificates are: (1) For foreign government contracts, (2) for contracts of other United States Government agencies, and (3) for civilian contracts; and all three of these certificates are voluntary in form, and in most instances are assigned direct by the Priorities Division.

The priorities system is operated under the direct authority of the Priorities Division; its entire operation, however, is in close collaboration with the armed services and their field officers.

It has been found essential to establish priorities for the contracts of the British Empire and other foreign governments whose defense is important to the United States, and to contracts of other Government agencies, such as the Maritime Commission, the Coast Guard, and the Panama Canal, which are likewise vital to the defense program; and further to some civilian contracts, for instance, those for the expansion of the production of essential scarce materials.

Further, where the shortage of scarce materials has become acute, it has been found necessary to deal with them more directly than can be done through the assignment of priority ratings to contracts. Therefore, where acute shortages have occurred in materials such as magnesium, aluminum, nickel, zinc, etc., general orders have been issued by the Director of Priorities, directing the distribution of the supplies of these materials; first, to the defense program, and, second, to those civilian needs most important to the national economy, subordinating the least essential needs in order to conserve the supply.

The Priorities Division, for the proper operation of an adequate system of priorities, needs clarification and extension of the statutory authority which is now derived solely from said section 2 (a) of Public, 671, for the reasons hereinafter specified.

NEED FOR PROPOSED LEGISLATION

I. MANDATORY AUTHORITY

The only mandatory power for the establishment of priorities is derived from the following clause in section 2 (a) of Public, 671, Seventy-sixth Congress, third session, which the director of priorities is authorized to exercise:

* * * deliveries of material under all orders placed pursuant to the authority of this section and all other naval contracts or orders and all Army contracts and orders shall, in the discretion of the President, take priority over all deliveries for private account or for export.

Under this clause, mandatory priorities can only be invoked for material which enters into Army and Navy contracts.

II. NEED FOR MANDATORY PRIORITIES ON OTHER DEFENSE CONTRACTS

1. *British and other foreign contracts.*—British and other foreign contracts which by national policy have been included as necessary to the defense program of the United States are clearly not covered by section 2 (a) above. However, unless such contracts are to be postponed in all cases to Army and Navy contracts, it is necessary that they be given priority ratings on a basis of equality with Army and Navy contracts. In the case of important military and naval items, such as airplanes, tanks, guns, etc., the load of orders for the United States Army and Navy, if they alone have priority status, would virtually eliminate British and other foreign contracts for these items; the manufacturers capable of producing them would be completely preempted by the Army and Navy contracts as a result of preference ratings granted to the latter. Hence, in order to comply with the national policy of obtaining military and naval products for the British, the Priorities Division has of necessity granted preference ratings to such British and other foreign contracts on a basis of equality with the Army and Navy contracts of the United States. However, in so doing, they have not been able to issue such preference ratings upon a mandatory basis but merely upon a voluntary basis of consent and cooperation.

Subparagraph (A) of the bill will give the right to establish mandatory priorities with respect to such foreign contracts.

2. *Other contracts*—(a) *Government departments and agencies.*—Government agencies other than the War Department or Navy Department place contracts which are vital to the defense program; for instance, the Coast Guard, Geodetic Survey, Maritime Commission, Panama Canal, etc. To prevent such contracts from being postponed to the entire military and naval program, the Priorities Division has of necessity issued preference ratings to the contracts of these agencies for ships and other equipment; again it has not been possible to issue such preference ratings on a mandatory basis but merely on the basis of voluntary cooperation.

(b) *To expand facilities, etc.*—Further, it is essential to the defense program in many instances to grant preference ratings to contracts which are in no sense military or naval or even Government, but which are nevertheless of prime importance to the defense program; for example, to obtain equipment for an expansion of the production facilities for materials in which there is a shortage; viz, aluminum, magnesium, tin, rubber, etc.; or for additional power-producing facilities. Here again the Priorities Division has of necessity issued preference ratings in order that such important items in the defense program should not be postponed to the entire military and naval program; and such preference ratings have had to be on a voluntary basis.

(c) *Vital civilian projects.*—Further, it may often be necessary to grant priority to a civilian need which is not directly connected with defense in any sense, and yet is essential to promote the defense program; for instance, the mechanical facilities for the water system in one of our large cities are notoriously old and in need of renewal. This city is a very important defense center. If by chance a serious

break-down should occur in these facilities it would be vital to obtain new machinery quickly; the present overloaded condition of the industries producing such equipment would necessitate the granting of high priority ratings to the orders for such machinery; if this were not done, the delay in obtaining it as a result of other defense priorities certificates already outstanding might be disastrous. Here, although the direct defense is not involved, the granting of preference certificates may become essential. This is only one instance of this type of need which may arise; it is impossible to predict or define the types of equally important situations that may occur, not directly related to defense.

It is apparent that reliance upon preference ratings for the foregoing four categories on a basis of voluntary cooperation has serious dangers.

At any time a manufacturer can refuse to honor such preference-rating certificates and prevent the fulfillment of contracts which are in some instances, as important to defense as the most important Army and Navy contracts. Further, this need happen, in all probability, only once to bring about widespread disregard of such voluntary certificates.

There is another serious disadvantage in these voluntary preferences: The manufacturer who recognizes them and gives priority to deliveries under them, runs the risk of damage suits by any and all private customers if the deliveries to such private customers under contracts and orders already placed are postponed by the recognition of such voluntary preference ratings. To suggest that the manufacturer can protect himself by obtaining the consent of each private customer is an inadequate answer, since such private customers may, within their rights, refuse to grant such consent. Further, when preference ratings are issued on any large scale, as of necessity they must be for British orders and in some instances for other Government agencies and civilian orders, it is difficult, if not impossible, for the manufacturer in all cases to obtain such consent without serious delay.

Thus, the issuance of such voluntary preference ratings places an unfair burden upon the manufacturer who is expected to recognize them. Each manufacturer may be putting his head in a noose which many not draw tight until 6 years hence when sued for damages at the expiration of the period of the statute of limitations.

Subparagraph (B) of the bill will give authority to establish mandatory priorities with respect to these other contracts important to the defense program.

III. SUBCONTRACTS

The above-quoted provision of section 2 (a) of Public, 671, has been interpreted to cover, not only the end products which are ordered directly by the services, but also the material which enters into those products through subcontracts. Such interpretation needs statutory clarification.

Further, such right to grant priority to subcontracts should apply not only to Army and Navy contracts but to all important defense contracts which the bill will bring under the mandatory authority.

Subparagraph (C) of the bill will accomplish this purpose.

IV. LIMITATION UPON THE SUBORDINATION OF OTHER CONTRACTS

Section 2 (a) permits contracts of the Army or Navy to be placed ahead of contracts for private account or for export, but not ahead of those of other Government agencies. It is essential for the proper operation of a priorities system that this limitation be removed by statutory enactment.

The bill covers this point by the sentence on page 2 thereof, which reads (lines 14 to 16, inclusive):

Deliveries under any contract or order specified in this section may be assigned priority over deliveries under any other contract or order.

V. SHORTAGES OF MATERIALS—INTERPRETATION OF SECTION 2 (A)—
ALLOCATIONS

Upon the understanding that Congress intended by section 2 (a) to get priority for the needs of the defense program, a broad interpretation has been given to the section. Acting upon this interpretation and in order to meet the necessities, the Director of Priorities has exercised industry-wide priorities control over the supply of those materials and products where acute shortages have occurred, directing their use first for defense needs and directing the distribution of any balances according to broad schedules of civilian needs in order of importance. This interpretation of the section should have statutory confirmation.

Serious shortages of essential defense materials and products will continue to result from the impact of the defense program. It is essential where these impend that the supply be protected in advance for defense needs. Steps must be taken to conserve the supply before the shortages become acute. This requires authority to allocate the supply so as to fill the defense requirements and the most essential civilian needs, and eliminate the unnecessary uses, in order to prevent an acute shortage.

Confirmation of the right to deal with acute shortages, and further to conserve the supply to prevent acute shortages, will be covered by the sentence in the bill which reads (p. 2, lines 16 to 22, inclusive):

Whenever the President is satisfied that the fulfillment of requirements for the defense of the United States will result in a shortage in the supply of any material for defense or for private account or for export, the President may allocate such material in such manner and to such extent as he shall deem necessary or appropriate in the public interest and to promote the national defense.

VI. INFORMATION

In order to establish and operate an intelligent priorities system upon the scale which the present defense program necessitates, we must have full information regarding the supplies and requirements of materials, productive capacities, inventories, and uses. This information must be obtained from industry. There is at present no statutory authority to require such information, and such authority should be provided.

Provision is made in the bill for obtaining such information by the sentence which reads (p. 2, lines 22 to 25, inclusive, and p. 3, lines 1 and 2):

The President shall be entitled to obtain such information from, require such reports by, and make such inspection of the premises of, any person, firm, or

corporation as may be necessary or appropriate, in his discretion, to the enforcement or administration of the provisions of this section.

VII. LIABILITY FOR COMPLIANCE WITH PRIORITY RATINGS

Orders placed by the armed services are in most instances not compulsory but the manufacturer who accepts these orders knows that a preference rating will usually be assigned to such orders the moment he accepts them. He therefore knows in accepting such orders that he will in many instances be required to postpone or eliminate deliveries under other orders from civilian customers which are already on his books.

If such manufacturer is sued for damages by one of such other customers for default under such customer's contract, there is some legal doubt whether the manufacturer can plead impossibility of performance since he has accepted the military order with knowledge that it will require such default. It is important to give clear statutory protection to all manufacturers who comply with priority orders.

Such statutory protection will be granted by the bill by the following sentence (p. 3, lines 2 to 6, inclusive):

No person, firm, or corporation shall be held liable for damages or penalties for any default under any contract or order which shall result directly or indirectly from his compliance with any rule, regulation, or order issued under this section.

SUMMARY OF PURPOSES OF THE BILL

Therefore, it appears necessary to enact an amendment to said section 2 (a) to clarify and amplify the priorities authority to take care of the necessities as indicated in the foregoing report. The language of such amendment should adhere to that used in section 2 (a).

The purpose of such amendment is sixfold:

1. To permit the assignment of mandatory priorities to contracts or orders of any foreign government which the President brings within the terms of the lease-lend bill.

2. To permit the assignment of mandatory priorities to any contract or order of a Government agency other than the Army or Navy or of private industry which is of vital importance to the defense program.

3. To make clear that mandatory priorities may be extended to subcontracts and suborders for parts, supplies, and materials which enter directly or indirectly into the fulfillment of the prime contracts which are subject to mandatory priorities.

4. To permit control of the distribution of those products and materials in which shortages appear by reason of the impact of the defense program and to permit the allocation of such products and materials to defense and to the most important civilian needs in preference to less important uses.

5. To permit adequate information to be obtained to operate the priorities system.

6. To protect persons complying with priority orders against liability for damages.

This bill has the unanimous recommendation of the committee.

The following letter from Messrs. William S. Knudsen and Sidney Hillman, respectively Director General and Associate Director General of the Office of Production Management, to the chairman of

the Committee on Naval Affairs of the House of Representatives, recommending this legislation, and advising of the approval of the Secretary of War and the Secretary of the Navy thereof, was referred to this committee for consideration and should be made a part of this report:

APRIL 23, 1941.

The Honorable CARL VINSON,
House of Representatives, Washington, D. C.

DEAR MR. VINSON: On behalf of the Office of Production Management, there is enclosed herewith the draft of a statutory provision to clarify and amplify the priorities power under the clause in section 2 (a) of Public, 671, Seventy-sixth Congress, third session, together with a memorandum describing the need for such additional legislation.

We understand that you introduced the original bill which was enacted as Public, 671, containing said section 2 (a). Therefore, after consultation with Mr. William W. Dulles, Special Assistant to the Secretary of the Navy, we felt it appropriate to submit the enclosed statutory provision to you.

The sole priorities power at present derives from said section 2 (a), except for special priorities powers vested in particular agencies over the industries which fall within their jurisdiction, such as the Maritime Commission, Power Commission, and Interstate Commerce Commission.

As indicated by the attached memorandum, the priorities power authorized by said section 2 (a) needs amplification and clarification to permit the establishment of an adequate priorities system, and the necessary control of materials in which shortages occur as a result of the impact of the defense program upon our national economy.

The attached memorandum describes the particular points which need amplification and clarification, citing examples of the essential need therefor.

Without such amplification and clarification of said section 2 (a), the Priorities Division of the Office of Production Management cannot adequately deal with the needs of national defense.

The proposed statutory provision has not been drafted in the form of a separate bill, in the belief that it can be appropriately added as an additional provision to a naval or military bill. However, it can, without difficulty, be converted into a separate bill if that appears more appropriate.

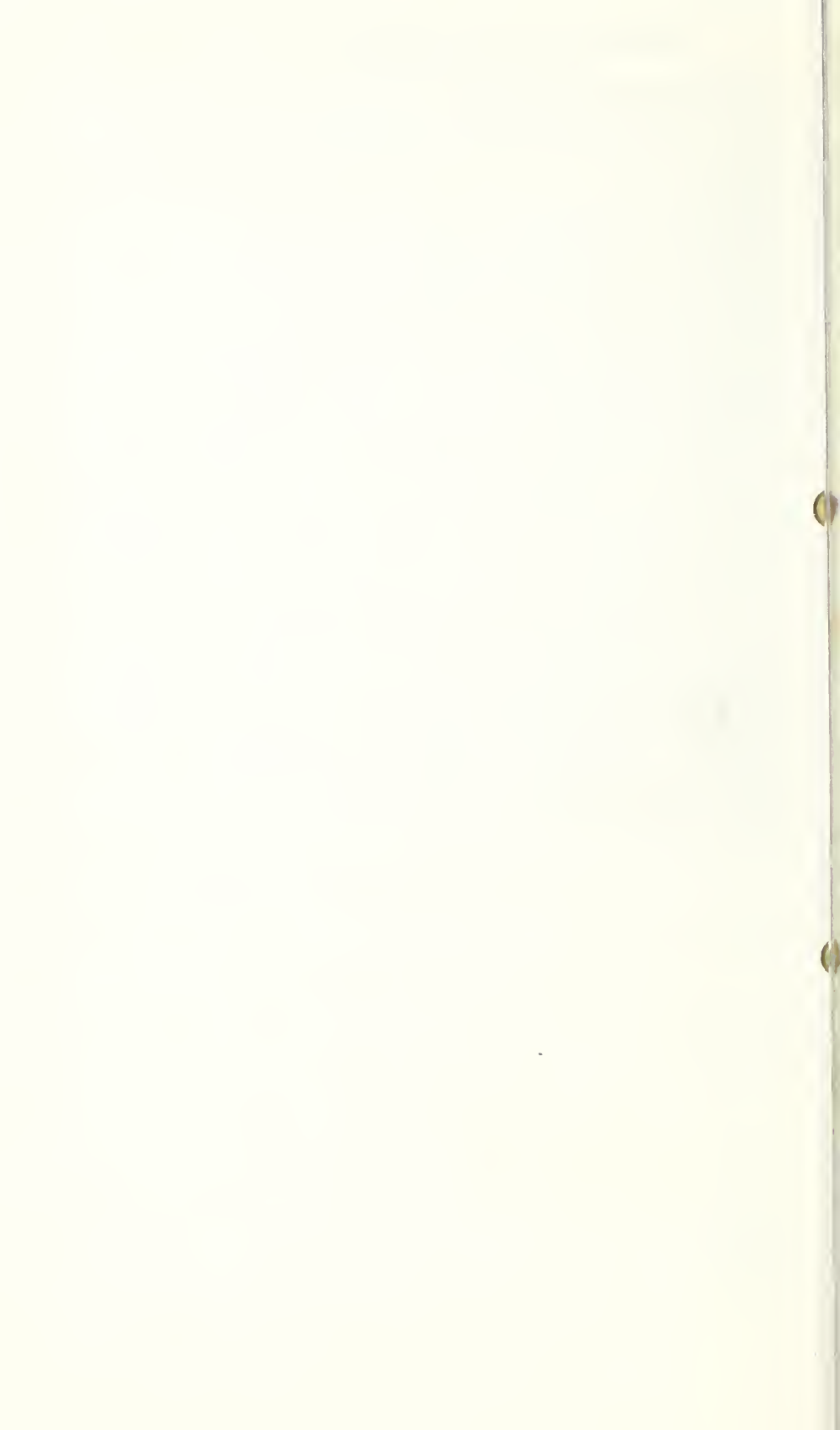
The suggested amendment will not result in any direct expenditure of funds, and no special appropriation will be required to make it effective.

In view of the serious need for this legislation and the necessity for speed in the defense program, the Office of Production Management urgently recommends expeditious action.

Very truly yours,

WILLIAM S. KNUDSEN,
Director General.
SIDNEY HILLMAN,
Associate Director General.

○

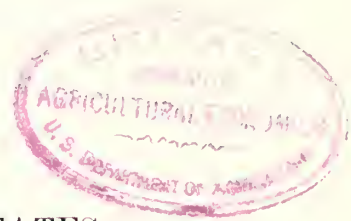


Calendar No. 323

77TH CONGRESS
1ST SESSION

H. R. 4534

[Report No. 309]



IN THE SENATE OF THE UNITED STATES

MAY 9 (legislative day, MAY 8), 1941

Read twice and referred to the Committee on Military Affairs

MAY 15 (legislative day, MAY 8), 1941

Reported by Mr. HILL, with amendments

[Omit the part struck through and insert the part printed in *italic*]

AN ACT

To amend the Act approved June 28, 1940, entitled "An Act to expedite the national defense, and for other purposes", in order to extend the power to establish priorities and allocate material.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That section 2 of the Act approved June 28, 1940 (Public,
- 4 Numbered 671, Seventy-sixth Congress), as amended, is
- 5 amended by inserting "(1)" after "SEC. 2. (a)" and by
- 6 adding at the end of subsection (a) thereof the following:
- 7 "(2) Deliveries of material to which priority may be
- 8 assigned pursuant to paragraph (1) shall include, in addition

1 to deliveries of material under contracts or orders of the Army
2 or Navy, deliveries of material under—

3 “(A) contracts or orders for the Government of any
4 country whose defense the President deems vital to the
5 defense of the United States under the terms of the Act
6 of March 11, 1941, entitled ‘An Act to promote the
7 defense of the United States’;

8 “(B) contracts or orders which the President shall
9 deem necessary or appropriate to promote the defense of
10 the United States; and

11 “(C) subcontracts or suborders which the President
12 shall deem necessary or appropriate to the fulfillment of
13 any contract or order as specified in this section.

14 Deliveries under any contract or order specified in this sec-
15 tion may be assigned priority over deliveries under any other
16 contract or order. Whenever the President is satisfied that
17 the fulfillment of requirements for the defense of the United
18 States will result in a shortage in the supply of any material
19 for defense or for private account or for export, the President
20 may allocate such material in such manner and to such
21 extent as he shall deem necessary or appropriate in the public
22 interest and to promote the national defense. The President
23 shall be entitled to obtain such information from, require
24 such reports by, and make such inspection of the premises
25 of, any person, firm, or corporation as may be necessary or

1 appropriate, in his discretion, to the enforcement or admin-
 2 istration of the provisions of this section. No person, firm,
 3 or corporation shall be held liable for damages or penalties
 4 for any default under any contract or order which shall result
 5 directly or indirectly from his compliance with any rule,
 6 regulation, or order issued under this section. *The President*
 7 *may exercise any power, authority, or discretion conferred*
 8 *on him by this section, through such department, agency,*
 9 *or officer of the Government as he may direct and in con-*
 10 *formity with any rules and regulations which he may*
 11 *prescribe."*

12 ~~"(2)~~ The President may exercise any power, author-
 13 ~~ity,~~ or discretion conferred on him by this section through
 14 a Director of Priorities (in this paragraph called the 'Direc-
 15 tor'), whom he is authorized to appoint by and with the
 16 advice and consent of the Senate. The Director shall receive
 17 compensation at the rate of \$12,000 per annum, and is
 18 authorized to appoint and fix the compensation of such
 19 officers and employees as may be necessary to carry out
 20 his powers under this section. The Director shall exercise
 21 his powers under paragraphs ~~(1)~~ and ~~(2)~~ of this section
 22 with the assistance of industry committees, which he is
 23 hereby directed to establish and utilize, and upon the basis
 24 of information furnished to him by such industry committees
 25 and upon the basis of such other information as he deems

- 1 pertinent. Such powers shall be exercised by the Director
- 2 only after prior approval of such exercise by the Joint Army
- 3 and Navy Munitions Board."

Passed the House of Representatives May 8, 1941.

Attest:

SOUTH TRIMBLE,

Clerk.

77TH CONGRESS
1ST Session

H. R. 4534

[Report No. 309]

AN ACT

To amend the Act approved June 28, 1940, entitled "An Act to expedite the national defense, and for other purposes", in order to extend the power to establish priorities and allocate material.

MAY 9 (legislative day, MAY 8), 1941

Read twice and referred to the Committee on Military

Affairs

MAY 15 (legislative day, MAY 8), 1941

Reported with amendments



77TH CONGRESS
1ST SESSION

H. R. 4534



IN THE HOUSE OF REPRESENTATIVES

MAY 16, 1941

Ordered to be printed with the amendments of the Senate numbered

AN ACT

To amend the Act approved June 28, 1940, entitled "An Act to expedite the national defense, and for other purposes", in order to extend the power to establish priorities and allocate material.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 2 of the Act approved June 28, 1940 (Public,
4 Numbered 671, Seventy-sixth Congress), as amended, is
5 amended by inserting "(1)" after "SEC. 2. (a)" and by
6 adding at the end of subsection (a) thereof the following:
7 "(2) Deliveries of material to which priority may be
8 assigned pursuant to paragraph (1) shall include, in addition
9 to deliveries of material under contracts or orders of the Army
10 or Navy, deliveries of material under—

1 “(A) contracts or orders for the Government of any
2 country whose defense the President deems vital to the
3 defense of the United States under the terms of the Act
4 of March 11, 1941, entitled ‘An Act to promote the
5 defense of the United States’;

6 “(B) contracts or orders which the President shall
7 deem necessary or appropriate to promote the defense of
8 the United States; and

9 “(C) subcontracts or suborders which the President
10 shall deem necessary or appropriate to the fulfillment of
11 any contract or order as specified in this section.

12 Deliveries under any contract or order specified in this sec-
13 tion may be assigned priority over deliveries under any other
14 contract or order. Whenever the President is satisfied that
15 the fulfillment of requirements for the defense of the United
16 States will result in a shortage in the supply of any material
17 for defense or for private account or for export, the President
18 may allocate such material in such manner and to such
19 extent as he shall deem necessary or appropriate in the public
20 interest and to promote the national defense. The President
21 shall be entitled to obtain such information from, require
22 such reports by, and make such inspection of the premises
23 of, any person, firm, or corporation as may be necessary or
24 appropriate, in his discretion, to the enforcement or admin-
25 istration of the provisions of this section. No person, firm,

1 or corporation shall be held liable for damages or penalties
 2 for any default under any contract or order which shall result
 3 directly or indirectly from his compliance with any rule,
 4 regulation, or order issued under this section **(1)**: *Provided,*
 5 *That no such inspection shall be made of any private dwelling,*
 6 *occupied as such, without a warrant directing the search*
 7 *issued in accordance with the requirements of title XI, ch. 30,*
 8 *of the Act of June 15, 1917 (Espionage Act). **(2)**The*
 9 *President may exercise any power, authority, or discretion*
 10 *conferred on him by this section, through such department,*
 11 *agency, or officer of the Government as he may direct and*
 12 *in conformity with any rules and regulations which he may*
 13 *prescribe."*

14 **(3)**~~“(2)~~ The President may exercise any power, au-
 15 thority, or discretion conferred on him by this section through
 16 a Director of Priorities (in this paragraph called the ‘Diree-
 17 tor’), whom he is authorized to appoint by and with the
 18 advice and consent of the Senate. The Director shall receive
 19 compensation at the rate of \$12,000 per annum, and is
 20 authorized to appoint and fix the compensation of such
 21 officers and employees as may be necessary to carry out
 22 his powers under this section. The Director shall exercise
 23 his powers under paragraphs ~~(1)~~ and ~~(2)~~ of this section
 24 with the assistance of industry committees, which he is
 25 hereby directed to establish and utilize, and upon the basis

1 of information furnished to him by such industry committees
2 and upon the basis of such other information as he deems
3 pertinent. Such powers shall be exercised by the Director
4 only after prior approval of such exercise by the Joint Army
5 and Navy Munitions Board."

Passed the House of Representatives May 8, 1941.

Attest:

SOUTH TRIMBLE,

Clerk.

Passed the Senate with amendments May 16, 1941.

Attest:

EDWIN A. HALSEY,

Secretary.

AN ACT

To amend the Act approved June 28, 1940, entitled "An Act to expedite the national defense, and for other purposes", in order to extend the power to establish priorities and allocate material.

IN THE HOUSE OF REPRESENTATIVES

MAY 16, 1941

Ordered to be printed with the amendments of the
Senate numbered

The CHIEF CLERK read as follows:

Ordered, That the Senator from Washington [Mr. BONE] be excused from further service on the Committee on Immigration; that the Senator from Montana [Mr. MURRAY] and the Senator from Utah [Mr. MURDOCK] be excused from further service on the Committee on Post Offices and Post Roads; that the Senator from Louisiana [Mr. ELLENDER] be excused from further service on the Committee on InterOceanic Canals; that the Senator from North Carolina [Mr. REYNOLDS] be excused from further service as chairman of the Committee on the District of Columbia; and that he be assigned to service as chairman of the Committee on Military Affairs; that the Senator from Nevada [Mr. McCARRAN] be assigned to service as chairman of the Committee on the District of Columbia; that the Senator from Utah [Mr. MURDOCK] be assigned to service on the Committee on Banking and Currency; that the Senator from Montana [Mr. MURRAY] be assigned to service on the Committee on Military Affairs; that the Senator from Louisiana [Mr. ELLENDER] be assigned to service on the Committee on Territories and Insular Affairs; that the Senator from Arkansas [Mr. SPENCER] be assigned to service on the Committees on Claims, Immigration, Post Offices and Post Roads, and Rules; and that the Senator from West Virginia [Mr. ROSIER] be assigned to service on the Committees on Education and Labor, Civil Service, Claims, and Pensions.

The VICE PRESIDENT. Without objection, the order will be entered.

LONGEVITY PAY OF POSTAL EMPLOYEES—ADDRESS BY JOHN J. BARRETT

[Mr. McCARRAN asked and obtained leave to have printed in the RECORD a radio address delivered on May 2, 1941, by Mr. John J. Barrett, president of the United National Association of Post Office Clerks, on the subject of longevity pay for postal employees, which appears in the Appendix.]

The VICE PRESIDENT. Morning business is closed.

APPROPRIATION FOR ANTITRUST DIVISION, DEPARTMENT OF JUSTICE

Mr. O'MAHONEY. Mr. President, the Senator from Nevada [Mr. McCARRAN] has just filed, on behalf of the Committee on Appropriations, the report of the committee on the appropriation bill for the State, Justice, and Commerce Departments. This appropriation bill, as proposed to be amended, reduces by \$750,000 the appropriation of the Antitrust Division of the Department of Justice.

The House of Representatives, after having held extensive hearings, granted this additional appropriation of \$750,000. It is a matter of very great importance on numerous grounds which I shall not take the time of the Senate to mention at this moment, except to say that the American Farm Bureau Federation has urged this increased appropriation in order that the Department of Justice may proceed with its plans for an investigation of the restrictive practices whereby processors have increased the spread between the price the farmer gets for his products upon the farm and the price the consumer pays for them. The Department of Justice was also planning, through the Antitrust Division, to initiate a special investigation of devices and conspiracies in restraint of trade whereby small business has been victimized.

The record of the Department of Justice during the past couple of years under

Assistant Attorney General Arnold has demonstrated a perfectly amazing story of the division of world trade, whereby commerce in many items in which this country is vitally interested for defense has been turned over to Germany. Our industrial leaders have permitted Germany to take the lead away from us. They have blindly turned the whole South American market over to Germany in order to exploit our own people.

I shall go into all these matters at length when the measure comes before the Senate. In the meantime, I ask unanimous consent that there may be printed in the RECORD at this point a table showing the spread on certain agricultural commodities, which, in my opinion, demands investigation.

This table, which was prepared by the research assistants of the American Farm Bureau Federation, shows that the farm-

er is receiving from 12 to 60 percent less than the retail value of the agricultural products which he grows. For example, peas and tomatoes net the farmers only 12 and 14 percent, respectively, of what the consumer has to pay, while the producer of sheep receives only 60 percent of the retail value. Pork products yield the farmer only 57 percent of the retail price.

The whole story shows that the farmer's share of the consumer's dollar is steadily decreasing. I feel that the work which the Antitrust Division plans to undertake should not be interrupted, and that, if carried on, it will be productive of most valuable results to the agricultural section of our population.

The VICE PRESIDENT. Without objection, the table will be printed in the RECORD.

The table is as follows:

TABLE A.—Farm-to-retail price spreads for food products in 1939

Retail commodity	Unit		Farm value	Retail value	Actual margin	Farm value as a percentage of retail value
	Farm equivalent	Retail				
Pork products.....	1.90 pounds live hogs.....	1 pound composite.....	Cents 12.1	Cents 21.4	Cents 9.3	Percent 57
Lamb products.....	2.16 pounds live lambs.....	do.....	16.2	26.8	10.6	60
Dairy products.....	100 pounds milk.....	Composite products from 100 pounds milk.....	131.0	312.0	181.0	42
Hens.....	1.11 pounds live hens.....	1 pound dressed.....	14.9	30.1	15.2	50
Eggs.....	1 dozen.....	do.....	18.4	32.6	14.2	56
Bread:						
White.....	0.97 pound wheat.....	1 pound.....	1.0	7.8	6.8	13
Rye.....	0.39 pound rye and 0.64 pound wheat.....	do.....	.9	8.6	7.7	10
Whole wheat.....	0.92 pound wheat.....	do.....	1.0	9.1	8.1	11
Soda crackers.....	1.035 pounds wheat.....	do.....	1.1	15.3	14.2	7
Flour, white.....	1.41 pounds wheat.....	do.....	1.5	3.8	2.3	39
Corn meal.....	1.5 pounds corn.....	do.....	2.0	5.1	3.1	39
Rolled oats.....	1.78 pounds oats.....	do.....	1.6	7.1	5.5	23
Corn flakes.....	1.275 pounds corn.....	8-ounce package.....	1.1	7.1	6.0	15
Wheat cereal.....	2.065 pounds wheat.....	28-ounce package.....	2.2	24.1	21.9	9
Rice.....	1.51 pounds rough rice.....	1 pound.....	2.3	7.7	5.4	30
Macaroni.....	1.72 pounds durum wheat.....	do.....	1.6	14.3	12.7	11
Hominy grits.....	2.95 pounds corn.....	24-ounce package.....	2.4	8.4	6.0	29
Apples.....	1/8 bushel.....	1 pound.....	1.7	5.0	3.3	34
Oranges.....	1/4 box.....	1 dozen.....	6.2	27.9	21.7	22
Lemons.....	1/4 box.....	do.....	7.2	24.5	17.3	30
Beans, green.....	1/2 bushel.....	1 pound.....	3.0	10.6	7.6	28
Cabbage.....	1 pound.....	do.....	.8	3.6	2.8	22
Carrots.....	1/2 bushel.....	1 bunch.....	1.1	5.4	4.3	20
Celery.....	1/2 of 1/2 crate.....	1 pound.....	2.0	8.3	6.3	24
Lettuce.....	1/8 crate.....	1 head.....	2.9	8.3	5.4	35
Onions.....	1 pound.....	1 pound.....	.8	3.8	3.0	21
Potatoes:						
White.....	do.....	do.....	1.2	2.5	1.3	48
Sweet.....	1/2 bushel.....	do.....	1.4	4.2	2.8	33
Spinach.....	1/2 bushel.....	do.....	1.9	6.7	4.8	28
Peaches, canned.....	1.87 pounds clingstone.....	No. 2 1/2 can.....	1.3	16.8	14.9	8
Pears, canned.....	2.06 pounds Bartlett.....	do.....	2.2	20.4	18.2	11
Asparagus, canned.....	2.19 pounds.....	No. 2 can.....	7.9	27.8	19.9	28
Pork and beans, canned.....	0.35 pound dry beans.....	16-ounce can.....	.7	7.2	6.5	10
Green beans, canned.....	0.88 pound.....	No. 2 can.....	1.9	10.1	8.2	19
Corn, canned.....	3.2 pounds sweet corn.....	do.....	1.5	10.6	9.3	12
Peas, canned.....	0.877 pound.....	do.....	2.2	13.8	11.8	14
Tomatoes, canned.....	2.3 pounds.....	do.....	1.4	8.6	7.2	16
Prunes.....	1 pound.....	1 pound.....	2.8	9.1	5.7	37
Raisins.....	1.08 pounds.....	do.....	2.5	9.4	6.9	27
Navy beans.....	1 pound dry beans.....	do.....	2.9	6.2	3.3	47
Beet sugar.....	6.9 pounds sugar beets.....	do.....	1.8	5.8	4.0	31
Cane sugar.....	12.7 pounds sugarcane.....	do.....	1.7	5.4	3.7	31
Peanut butter.....	1.73 pounds peanuts.....	do.....	5.9	18.0	12.1	33

¹ 8-month average (January-August). The Bureau of Labor Statistics has discontinued collection of the retail prices of this item.

Source: Division of Marketing Research, Bureau of Agricultural Economics.

EXTENSION OF POWER TO ESTABLISH PRIORITIES AND ALLOCATE MATERIAL

Mr. HILL. Mr. President, I move that the Senate proceed to the consideration of House bill 4534, the so-called priorities bill.

Mr. McNARY. Mr. President, I understand the motion is to make the so-called priorities bill the unfinished business.

Mr. HILL. That is correct.

The VICE PRESIDENT. The question is on the motion of the Senator from Alabama.

The motion was agreed to; and the Senate proceeded to consider the bill (H. R. 4534) to amend the act approved June 28, 1940, entitled "An act to expedite the national defense, and for other purposes," in order to extend the power to establish priorities and allocate material, which had been reported from the

Committee on Military Affairs with amendments.

Mr. HILL. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Ellender	Norris
Aiken	George	O'Mahoney
Andrews	Gerry	Overton
Austin	Gillette	Pepper
Bailey	Glass	Radcliffe
Ball	Guffey	Reynolds
Bankhead	Gurney	Rosier
Barbour	Hatch	Russell
Barkley	Hayden	Schwartz
Bilbo	Herring	Shipstead
Bone	Hill	Smathers
Brewster	Holman	Smith
Bridges	Hughes	Spencer
Brown	Johnson, Calif.	Stewart
Bulow	Johnson, Colo.	Taft
Bunker	La Follette	Thomas, Okla.
Burton	Langer	Thomas, Utah
Butler	Lee	Truman
Byrd	Lodge	Tunnell
Byrnes	Lucas	Vandenberg
Capper	McCarran	Van Nuys
Chandler	McFarland	Wallgren
Clark, Idaho	McNary	Walsh
Clark, Mo.	Maloney	Wheeler
Connally	Mead	Wiley
Danaher	Murcock	Willis
Downey	Murray	

Mr. HILL. I announce that the Senator from Arkansas [Mrs. CARAWAY] is absent from the Senate because of a death in her family.

The Senator from Mississippi [Mr. HARRISON], the Senator from Tennessee [Mr. McKELLAR], the Senator from Maryland [Mr. TYDINGS], and the Senator from New York [Mr. WAGNER] are absent because of illness.

The Senator from New Mexico [Mr. CHAVEZ], the Senator from Rhode Island [Mr. GREEN], and the Senator from West Virginia [Mr. KILGORE] are detained on important public business.

Mr. AUSTIN. The Senator from North Dakota [Mr. NYE], the Senator from Kansas [Mr. REED], the Senator from Idaho [Mr. THOMAS], the Senator from Illinois [Mr. BROOKS], and the Senator from Pennsylvania [Mr. DAVIS] are necessarily absent.

The PRESIDING OFFICER (Mr. WALLGREN in the chair). Eighty Senators have answered to their names. A quorum is present. The clerk will state the first amendment reported by the committee.

The CHIEF CLERK. On page 3, line 6, after the word "section", it is proposed to insert "The President may exercise any power, authority, or discretion conferred on him by this section, through such department, agency, or officer of the Government as he may direct and in conformity with any rules and regulations which he may prescribe."

Mr. HILL. Mr. President, this bill contains amendments to an act of Congress passed and approved under date of June 28, last.

The act of June 28 last gave to the President the power to establish priorities and allocate material under Army and Navy contracts and Army and Navy orders. The President, acting under that power, under the act of June 28 last, delegated this power of establishing priorities and allocating material to the Office of Production Management, that

Office being composed of the Secretary of War, the Secretary of the Navy, the Director of Production Management, Mr. Knudsen, and the Associate Director of Production Management, Mr. Hillman.

With the consent of the President, and under an order issued by the President, the O. P. M. then proceeded to set up a Division of Priorities, and, with the consent of the President, to name Mr. Edward R. Stettinius the Director of that Division.

Under the O. P. M. and the Division and Director of Priorities, the Government since January of this year has been establishing priorities and allocating material under Army and Navy contracts and Army and Navy orders. However, it is found that the establishment of priorities and the allocation of material only under Army and Navy orders and Army and Navy contracts is not sufficient. The O. P. M. and the President must have power to go beyond strictly Army and Navy contracts and Army and Navy orders.

The bill now before us, amending the original act of June 28, would do six things:

The first provision of the bill would permit the assignment of mandatory priorities to contracts or orders of any foreign government which the President brings within the terms of the lease-lend law.

Under the law as it now stands, neither the President nor anyone else has the power to establish mandatory priorities for material ordered by foreign governments pursuant to the lease-lend law. That means that, so far as any mandatory power is concerned, any orders for material for any foreign government coming under the lease-lend law are subordinated to orders for our Army and our Navy, which means that, so far as any mandatory priorities are concerned, any orders for Britain or any of these other governments coming under the lease-lend law, any government whose defense we have declared to be vital to our defense, may be postponed, and may have to wait until the full completion in all cases of all Navy and Army contracts and Navy and Army orders. For instance, let us take the case of guns. As the law now stands, so far as the mandatory priorities are concerned, all orders for guns for our Army and our Navy would have to be fulfilled before any orders could be carried out for Britain or for any of the other governments coming under the Lease Lend Act.

The O. P. M. has very wisely met this situation by granting preferential ratings to orders for Britain and these other countries, but those preferential ratings have no authority, no mandate, behind them; they are based solely and entirely upon the consent and upon the cooperation of the manufacturers, and at any time some manufacturer might take the position that he does not care to cooperate, that he does not wish to go forward voluntarily. If that happened, disregard of cooperation might spread and the whole program might break down, so far as any orders or material for Britain or any of the other countries coming under the lease-lend law are concerned.

The first provision in the pending bill would enable the President, acting through the O. P. M., or such agency as he might see fit to designate, to put orders for Britain or other countries coming under the lease-lend law on an equal basis, so far as priorities are concerned, with Army and Navy orders and Army and Navy contracts. It would make priorities for orders and contracts of Great Britain and the other countries coming under the lease-lend law mandatory, just as priorities are mandatory for the Army and Navy orders and contracts.

The second provision of the bill would permit the assignment of mandatory priorities to deliveries of material under any contract or order of a Government agency, other than the Army or Navy, or a private industry which is of vital importance to defense. For instance, some of the material which the Maritime Commission needs, some material which the Coast Guard needs, some which the Geodetic Survey needs, some which the Panama Canal needs may be just as important as material which the Army and Navy have ordered. As matters now stand, the orders for material for these other Government agencies, no matter how urgent or how important they may be, are subject to all the priorities for Army and Navy material.

We may have a case in one of our larger cities, a center of great industrial development of first importance to the national defense, where there would be a water supply which was old and antiquated. The mechanical facilities of the water supply may break down and have to be replaced or rehabilitated at any time, and it may be necessary to have priorities to get the equipment to repair these facilities. The quick replacement of these facilities might be more important than some order for similar equipment for the Army or Navy.

The third provision is to make it clear that mandatory priorities may be extended to subcontracts and suborders for parts, supplies, and materials which enter directly or indirectly into the fulfillment of contracts which are subject to mandatory priorities.

The O. P. M., in its construction of the act of June 28 last, has, I think very wisely interpreted the language to cover subcontractors; but the language is not clear, and specific as it should be. The third provision of the bill would make clear beyond all question the intent and purpose to grant the power to establish priorities for subcontracts, as well as for the prime contracts.

Senators can well see the importance of granting priorities to subcontracts as well as to prime contracts. In many instances some of the most important supplies, some of the most important parts, some of the most important materials, are furnished by the subcontractor to the prime contractor, who must have them at the times and in the quantities required to complete the prime contract.

The next provision is to permit control of the distribution of those products and materials in which shortages appear by reason of the needs of the defense program, and to permit the allocation of

such products and materials to defense and to the most important civilian needs in preference to less important uses. There are a number of materials which we know as critical or scarce materials, materials like aluminum, zinc, and tungsten, which are very important and of which there is a scarcity. If we are really going to properly control the supply of such scarce materials so as to meet the needs of defense, and also meet the more important civilian needs, we have to go to the source, to the supply of the raw material itself, rather than to the finished product, and this would give us the power to direct the distribution of these materials at the source of supply.

Let us take a mineral like aluminum. We know that today we have only about 25 percent of our supply available for civilian uses after we fill our defense needs. This situation presents the question as to how the 25 percent of the needed supply for civilian uses shall be allocated. It is most important that the allocation be based upon the importance of the needs to our national and domestic economy; that the more important needs be taken care of; that we see to it that these more important needs are not neglected by having the supply used up for less important or perhaps even nonessential needs.

The next provision is to permit adequate information to be obtained to operate the priorities system. It gives to the President the power, through the priority agency, to secure information about the different plants and manufacturing establishments, what the plants may be used for, what their productive capacity is, what inventories they have on hand, what their supply of stock is—all the information necessary to carry on a Nation-wide priorities system with intelligence and with efficiency.

The next provision, the last one, is to protect persons complying with priority orders from liability against damages. As matters stand today there is no protection provided for the manufacturer who complies with priorities orders, with the exception of Army and Navy orders. The manufacturer is in this position: If he goes forward and provides the material under the priority order, and breaches a contract with some other customer whose order he has accepted he has made prior to the establishment of the priority order, of course, as we know, he is subject to a suit for damages by the customer. Some of the statutes of limitations vary, and he may not be sued for as long as 6 years afterward. As the matter now stands, if the manufacturer has existing orders which he is under contract to fill, and the Government needs something from that manufacturer, in a hurry, we have all the delay resulting from the manufacturer being obliged to go to his other customer and negotiate and try to get those other customers to permit him to postpone delivery of their orders until the Government needs can be met. This may be true in some jurisdictions even if the priority order is mandatory. This provision would hold harmless beyond any doubt any manufacturer who was forced to

delay meeting the requirements of some other customer in order that he could meet the demands of the Government under a priority order.

Mr. President, that briefly tells us the purpose of the bill. Let me say that your Committee on Military Affairs held an extended hearing on the bill. We heard from the Secretary of War, from the Secretary of the Navy, from other officials of both the Army and the Navy, from Mr. Knudsen, from Mr. Stettinius, from Mr. John Lord O'Brien, the General Counsel of the O. P. M., and other representatives of the O. P. M. and from Mr. Henderson, Administrator of Prices and Civilian Supply. We went into this matter very thoroughly. After the hearing the committee not only voted the bill favorably, but it voted it unanimously, and I think that with one or two exceptions we had the entire membership of the committee present and voting. I have never known a committee to be more unanimously behind a bill than this committee was when it reported this bill.

The committee reported the bill in the form in which it was originally introduced in the House of Representatives, and in the form in which it was originally introduced in the Senate, and in the form in which the O. P. M., the Secretary of War, the Secretary of the Navy, and all the gentlemen who have been responsible for the procurement of material for our defense, and who are responsible today for the supplying of our armed forces, desire the bill to be.

It happened, however, that when the bill came up for consideration in the House of Representatives, late in the afternoon of the day on which the bill passed the House of Representatives, an amendment was offered on the floor of the House which, instead of permitting the administration of priorities, under the bill and under the original act of June 28 last, to be carried on by the O. P. M., by the Secretary of War, and the Secretary of the Navy, and by those who have been carrying on the priorities administration for the Army and the Navy, and who are responsible for the production and the procurement of supplies and material for our armed forces—instead of leaving that power where it is and where the original bill proposed that it should be, the amendment adopted late in the afternoon on the floor of the House of Representatives, took it out of the hands of those I have mentioned and put it into the hands of a Director of Priorities, set off separate and apart by himself, away from the Army, away from the Navy, away from the O. P. M., to administer priorities by himself. It gives him a salary of some \$12,000 a year; and he is to be appointed by the President, with the advice and consent of the Senate. It gives him the power to establish and set up any kind of elaborate organization he might see fit, because the amendment gives him the power to appoint and fix the compensation of such officers and employees as may be necessary to carry out his powers. Then it goes further and gives him the power to set up all kinds of industry committees, to have a great organization of his own set off as a fifth

wheel, separate and apart from the duly constituted organization which we have today carrying on this job.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. HILL. I yield.

Mr. TAFT. Can the Senator give us any assurance that there will not be just that kind of a director under the bill? Can he give any assurance that the power will be given to the Office of Production Management?

Mr. HILL. As the Senator knows, the power under this bill is vested directly in the hands of the President of the United States; of course, the Senator from Alabama cannot speak for the President of the United States, but the Senator from Alabama does not hesitate to say that as the result of the testimony at the hearing before the Senate Committee on Military Affairs, and as the result of conversations which the Senator from Alabama has had with Mr. Stettinius and others in the O. P. M., and with Mr. Leon Henderson, as well as conversations with officials in both the War Department and the Navy Department, the Senator from Alabama certainly feels assured that the administration of these priorities will remain in the very hands in which that administration is placed today under the act of June 28 last.

The Senator from Ohio knows, but it might also be interesting to Senators generally to know at this time, just what that administration is. The power, as I have stated, under the law is in the hands of the President, but he has delegated that power to the Council of the O. P. M., which, as I said, is composed of the Secretary of War, the Secretary of the Navy, Mr. Knudsen as Director of the O. P. M., and Mr. Hillman as Associate Director. Then under this Council of the O. P. M. we have the Division of Priorities, headed by Mr. E. R. Stettinius, Jr., as Director of Priorities, and along with Mr. Stettinius as Director we have an Advisory Committee on Priorities. That Advisory Committee on Priorities is composed of Mr. Stettinius, as the Chairman; the Director of Purchases, Mr. Nelson; the Director of Production, Mr. Biggers; the Under Secretary of War, Mr. Patterson; the Under Secretary of the Navy; and representatives from the supply branches of both the Army and the Navy. That this set-up in the administration of priorities will remain I am quite confident.

The amendment which was put in the measure on the floor of the House was not considered in any way by the House committee. There were no hearings held upon the amendment or upon the purposes of the amendment. Late in the afternoon the amendment was offered on the floor, and the chairman of the committee rose and said he accepted the amendment; so, really, the amendment was agreed to without any debate or any discussion, and no opinions were secured from any of those now responsible for priorities as to what the effect of the amendment would be.

Mr. President, we have to realize that the O. P. M. is a superservicing organization for the Army and the Navy, for the armed forces, and in their superservices

they have three problems to deal with in securing the material and the supplies needed for the Army and the Navy.

One is procurement; another is production; and the third is priorities. These three factors are like the legs of a tripod. It is on them as a base that the whole matter of securing the necessary material and supplies for the Army and Navy depends. Priorities are an integral part of the whole administration, just as production is an integral part, and just as procurement is an integral part. For procurement we need production; and for production we need to use our priorities as a tool. Priorities are merely an instrumentality through which we obtain the production and procurement which we must have. They are all merely a means to the end of securing what is needed when it is needed; and to set them off separate and apart is not justified in any way. O. P. M. is the agency held responsible for securing the material and supplies; and it is ridiculous to hold that agency responsible and then take out of its hands one of the most important tools which it needs to perform its function. I refer to the tool or instrumentality of priorities.

Your committee was unanimous in submitting a committee amendment to strike from the bill the amendment which was put in on the floor of the House providing for a separate director of priorities. I do not think it is possible to overemphasize the necessity for the coordination of all the work. For instance, we have now, as we know, the Office of Price Administration and Civilian Supply. It is absolutely necessary that the Priorities Division work in the closest cooperation and coordination with the Office of Price Administration and Civilian Supply. I use aluminum as an illustration. After we meet our national-defense needs, we have available today only about 25 percent of the amount required for our civilian needs. So the question then arises as to how the 25 percent available for civilian needs should be allocated. There must be the closest cooperation between the Office of Price Administration and Civilian Supply on the one hand, and the Division of Priorities on the other.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. HILL. I yield.

Mr. TAFT. How is that coordination obtained by putting priorities in the O. P. M.?

Mr. HILL. As the Senator knows, the President is the head of it all. Under him we have the O. E. M., or Office of Emergency Management. Within the Office of Emergency Management we have the O. P. M. and the Office of Price Administration and Civilian Supply.

Mr. TAFT. Yes; but under the present set-up the Office of Price Administration and Civilian Supply is entirely distinct and has entirely independent authority from the O. P. M.

Mr. HILL. It does.

Mr. TAFT. So it might as well be argued that the Priority Division should be in the O. E. M.

Mr. HILL. They both come under the O. E. M., and they both have to do with priorities, as well as the matter of procurement and the matter of production.

Mr. TAFT. Can the Senator tell me who the head of O. E. M. is, and what kind of an office it is?

Mr. HILL. The head of O. E. M. is the President of the United States.

Mr. TAFT. So the only real cooperation between O. P. M. and the Office of Price Administration and Civilian Supply is through the President, the same kind of coordination as exists among other departments of the Government.

Mr. HILL. I will say to the Senator that the Office of Price Administration and Civilian Supply does not come under the O. P. M.

Mr. AUSTIN. Mr. President, will the Senator yield?

Mr. HILL. I yield.

Mr. AUSTIN. It may be interesting to read what Mr. Henderson testified regarding that point. I read from page 107 of the transcript:

The Office of Price Administration and Civilian Supply has a responsibility running to priorities in this way. As Mr. Smith pointed out, it is necessary to make a determination as to the order of preference in case of a shortage of the residues that are available for civilian consumption.

Mr. Smith was assistant counsel of Office of Production Management, who testified upon the legal necessity for the legislation:

Now, in our executive order creating Office of Price Administration and Civilian Supply we inherited the consumer-protection function carried on in the old Defense Commission by Miss Elliott. We continued the price-administration function. We were assigned the civilian-allocation function for the making of plans and programs, and we were given the general responsibility for civilian supply.

Now, all of those—price, consumer protection, civilian supply—relate to this question of the distribution of scarcities, once all of the defense needs have been satisfied.

Now, we have worked out with Mr. Stettinius a very adequate basis for the submission of plans and programs, and it is quite essential that once those determinations have been made, that he has access to these powers and that we have access in certain limited ways to these powers, in order to give enforcement to them, and also to protect the manufacturers and processors from any legal liability in carrying out these orders.

That is one of the important purposes of the bill.

Mr. HILL. I thank the Senator. As the Senator well knows, Mr. Stettinius, the Secretary of War, the Secretary of the Navy, Mr. Knudsen, Mr. Henderson, and every one of the witnesses who appeared before our committee was very much opposed to the amendment inserted by the House. The Secretary of War being the senior official of the Government who appeared, I wish to read a short letter which he wrote in opposition to the amendment inserted by the House:

The War Department believes that the amendment * * * passed by the House is undesirable for the following reasons:

(a) It would materially change the working arrangement between the Office of Production Management and the Army and Navy Munitions Board which has been developed over a period of many months and which is now operating satisfactorily. Such a rearrangement under present critical conditions would be certain to cause confusion and to slow up the defense program.

That was corroborated and confirmed by every witness who appeared. If we want to throw a monkey wrench into the machinery, if we want to slow up the program, if we want to bring about confusion, certainly there is no better way to do it than by the adoption of the House amendment.

The Secretary continues:

(b) It would single out from the Office of Production Management for a mandatory type of organization a single important function of that office, which for efficient operation should remain an integral part of the Office of Production Management.

I endeavored to emphasize that thought when I said that priorities, procurement, and production were legs of the tripod upon which the whole defense program rests. Priorities are an integral part of the whole.

Reading further from the letter of the Secretary:

(c) It would freeze the organization of the priority function in the form specified in the amendment and destroy the flexibility which all agencies set up to handle the emergency situation should have in order to permit them to adapt themselves to emergency conditions which cannot be foreseen. The history of the defense organization over the past few months has emphasized the necessity for such flexibility.

The Secretary further says—and I want to emphasize the fourth point—

(d) It would assign to the Army and Navy Munitions Board—

Remember, that Board is composed almost entirely of military and naval men. They are the representatives of the armed forces—

It would assign to the Army and Navy Munitions Board functions which are beyond its proper scope of activity as visualized in the industrial mobilization plan.

Mr. BREWSTER. Mr. President, will the Senator yield?

Mr. HILL. I yield.

Mr. BREWSTER. The Senator has just cited the industrial mobilization plan as the authority, to some extent, for his proposal. Does that indicate that the Senator is in accord with the recommendations of the industrial mobilization plan?

Mr. HILL. I will say to the Senator from Maine that the Secretary of War was speaking of the industrial mobilization plan. I do not know what particular plan the Senator refers to, but I know that when Congress passed the National Defense Act of 1920 Congress imposed upon the Assistant Secretary of War the specific duty of industrial mobilization, and provided that he should have a staff of officers to help him work out the matter of industrial mobilization; and I know that since the passage of the act of 1920, under the direct leadership of the Assistant Secretary of War, the War Department has been making all kinds of plans looking toward industrial mobilization. Although some of these plans might not meet the approval of all of us, and I myself might not agree with all the plans, I am sure that under that provision of the act of 1920 much has been done that has helped to expedite the program we now are carrying out.

Mr. BREWSTER. What I had reference to is a little more specific than what the Senator has indicated. Under the instructions of that act, the War Department has gone forward with very careful studies by very competent men, based upon the experience gained in our last war and that gained during all the years which have since elapsed; and about 1930, I think, the Department issued the first printed report on the industrial mobilization plan. That has been revised three times since then. The last revision was in 1939 I believe. In it the Department provided a very comprehensive and detailed study of what should be done.

I assumed that it was that study to which the Senator referred in his support of the proposal now under consideration. I may say that it is a matter which I consider of the most extreme importance, and it has given me a great deal of concern that those in authority have not been more closely guided by the recommendations of that study; and we have asked all the members of the administration who have been before our committee on defense the reason for the departures from that plan. So I welcome the Senator's suggestion that in this particular instance he is being guided by that report, which I hope will have even more respectful treatment than thus far it has received.

Mr. HILL. I can give the Senator from Maine even more encouragement than that. Not only am I being guided in this particular instance by that report, but, since I am quoting from the Assistant Secretary of War, I may say that in this particular instance he is being guided by that report.

Mr. BREWSTER. That is most gratifying. I hope he will be guided by it in toto before very much more time has elapsed.

Mr. HILL. The Secretary of War goes on to say:

The advice of Mr. Baruch—

Of course, he was referring to Mr. Bernard Baruch, who, during the World War was the head of the War Industries Board, and who perhaps had more to do with industrial mobilization for the World War than any other man in the United States.

The Secretary says:

The advice of Mr. Baruch and others who had experience in the World War in this regard was to leave industrial questions to civilians and military matters to the armed services.

The House amendment would violate this sound principle, because, let me say to the Members of the Senate, the House amendment requires that everything done by the Director of Priorities, as set up in the House amendment, must have the approval of the Army and Navy Munitions Board.

Mr. BREWSTER. Would the Senator be satisfied to strike from the House amendment the last sentence which imposes the restriction to which the Senator refers, so as to leave to the statutory Administrator this very important responsibility?

Mr. HILL. No; the Senator from Alabama could not accept such a change, and would not be satisfied with it. I think one of the worst features of the amendment is the provision which would put industrial mobilization and the exercise of priorities in the hands of military men rather than in the hands of civilians. However, even if that provision were stricken out I think the amendment would be most harmful, and would do much to disturb and to disrupt the whole program. I think it would be very deplorable to write this amendment into the bill.

Frankly, as a former Member of the House—as the Senator from Maine is a former Member of the House—it is my belief that if hearings had been held on this amendment, and if there had been an opportunity to thrash it out and to debate it and to understand what the amendment would do, the House would not have adopted the amendment. The Senator, as a former Member of the House, knows that the House sometimes does business as we in the Senate occasionally do; some Member offers an amendment, and the chairman says, "I accept it," and the amendment goes in the bill without careful consideration, and certainly without thorough analysis or debate.

Mr. BREWSTER. The Senator from Alabama recognizes the necessity of some continuity of policy in connection with administering so tremendous a power as is here contemplated; does he not?

Mr. HILL. The Senator from Alabama certainly does; and that is the very reason why he is against this amendment. There cannot be continuity of policy if we have a dozen different agencies, all of them setting a dozen different policies, and perhaps all those dozen different policies in conflict one with each other.

Mr. BREWSTER. That is the difficulty which I find with the Senator's argument in opposing the creation of an Administrator of Priorities, providing he is not restricted by the Army and Navy Munitions Board with respect to which I think I should be in full accord with the Senator's position.

Mr. HILL. I will say to the Senator that if we are to have a separate director, with a separate organization, with separate personnel, and with separate industrial committees for priorities, we would be as well justified in having a similar separate organization for procurement, and another separate organization for production. Our whole program will fail unless all three of those functions are coordinated, and work as integral parts of one whole.

Mr. BREWSTER. Would the Senator be ready to support the creation of the authority contemplated by the Industrial Mobilization Act, as recommended by the War Department, which would definitely determine the administration of this entire responsibility?

Mr. HILL. The Senator from Alabama is not familiar with the details of the recommendations to which the Senator from Maine refers. The Senator from Alabama will say that after hearing the evidence on this bill from many witnesses,

he was absolutely convinced that this bill should be enacted just as the committee reported it; and not only was that the conviction of the Senator from Alabama but he feels that that was the conviction of every member of the Senate Committee on Military Affairs who attended the hearings and heard the testimony. I think the Senator from Vermont [Mr. AUSTIN] will confirm the Senator from Alabama in that statement.

Mr. BREWSTER. The only difficulty I find with the Senator's position is that he does not go far enough. I would go much further, and would complete the entire journey to the recommendations of the Industrial Mobilization Board.

Mr. AUSTIN. Mr. President, will the Senator yield?

Mr. HILL. I yield to the Senator from Vermont.

Mr. AUSTIN. I think it may be interesting to note the testimony on this particular question as obtained from the Assistant Secretary of War, Judge Patterson. It appears at page 12 and following in the transcript:

Senator AUSTIN. Mr. Secretary, I would like to get at the underlying reason for this position taken by you. Now, is it true that our experience in the World War developed the definite fact that behind all other efforts this ability to allot and to quota and to give priority was the most powerful sanction to obtain cooperation in the Government's total effort?

Mr. PATTERSON. It was a very potent weapon, there is no question about it. It wasn't the only one, but it was a very powerful one.

Senator AUSTIN. Now, then, did we not learn from the experience in the World War—that is, from the first 12 months of futility and confusion, and the next 6 months of most remarkable efficiency—did we not learn one great lesson, namely, that in order to make the wheels coordinate for our national workshop it was best to have a civilian agency with power supreme over the acquisition of military supplies and civilian supplies?

Mr. PATTERSON. I think so.

Senator AUSTIN. And is it true that the War Industries Board gained its success, of course, principally from the voluntary and willing cooperation of industry, but also from the fact it always could resort to priorities in any case of a recalcitrant industry?

Mr. PATTERSON. Yes, sir. Of course, they had more than priorities, and I think Mr. Baruch's body did much more than exercise priorities. They had control of Army and Navy purchases just as the Office of Production Management has now. They did not in any way direct the Army and Navy as to their requirements, nor did they take the initiative, as I understand it, with finding the sources of supply, but they did exercise, as is done now, a veto power in order to prevent the unnecessary bunching up of orders in some place, and they were the channel whereby Army and Navy orders were coordinated.

As I understand it, they made sure that if Bethlehem Steel had a great many naval orders, for instance, that Army orders were not unnecessarily bunched up there also.

Senator AUSTIN. Now, if you were to take this section 3 in the proposed bill, and intrude it into the Office of Production Management, or, rather, split away from the Office of Production Management the control of this remarkable sanction that priorities give, you would get an element of disorganization at once which would require one procurement agency going over and getting the consent of another procurement agency in order to apply the sanction, would you not?

Mr. PATTERSON. Undoubtedly.

Senator AUSTIN. And that would be right in the face of the experience, the very valuable experience, in the World War, would it not?

Mr. PATTERSON. Yes, sir. Mr. Baruch's organization had the priority power; it likewise had the power, as I have said, of allocating the Army and Navy business to the best industrial sources, from a picture of the whole thing.

The Office of Production Management is doing the same job now, and this would split off from them and put into an independent agency one of those powers. I think it would be unfortunate.

Does the Senator recognize that as at least a response to his question, if not an answer?

Mr. BREWSTER. Mr. President, will the Senator from Alabama yield for a moment?

Mr. HILL. I yield.

Mr. BREWSTER. I have in mind the very eloquent appeal of the Senator from Vermont for the passage of the Lease-Lend Act in order to accomplish that concentration of authority which I think is going to be recognized very shortly as imperative, and I would be interested to know whether or not the Senator from Vermont would be now equally concerned in adopting the recommendations for our industrial mobilization contained in the studies of the War Department over the last 20 years and in its final revised plan?

Mr. AUSTIN. I cannot answer the question in the form in which it is asked, for I do not remember those recommendations.

Mr. BREWSTER. I feel very strongly that, in this crisis, when we have available the benefit of 20 years of study by responsible authorities of the War Department, commissioned by the Congress for that purpose, following the experience of the last war, any deviation from that program in this time of crisis merits very careful consideration. The plan, I may say, under which we are now operating is utterly different from that contemplated by the War Department in its studies.

Mr. AUSTIN. Mr. President, let me say that the principle for which the Senator from Maine speaks I believe to be a correct principle of procedure. I cannot recall those recommendations. I may have read them at some time, but I am not entirely certain that I have read them. At any rate, I do not identify the precise thing to which the Senator is now referring. I think the Senator from Maine will recall that very early in the attempt to organize industrial procurement I offered a bill to create a civilian agency which would have supreme authority over the procurement of supplies for both the Army and the Navy. I believed in that principle. It was defeated, and I have no complaint to make, because I now see that in the organization of the Office of Production Management the same thing is being done; and it is apparent to me from the hearings and my observation outside the hearings that the civilian expert on production—in this case Mr. Stettinius—will have supreme control over priorities not merely in the military and naval departments but also outside and in the civilian field.

Mr. BREWSTER. Does not the Senator recognize that we are superimposing an authority over the one responsible for procurement, whereas the whole essence of these studies, I may say, with which the Senator says he is not now familiar, was that there must be one man responsible for procurement, who would have absolute power both over procurement and priorities, as Mr. Baruch did in the administration of the War Industries Board?

Mr. AUSTIN. Yes; I would prefer that.

Mr. BREWSTER. Until we achieve that we are going to have some of the chaos and confusion which now unfortunately seem to prevail. We have seven men in the Advisory Council of Defense. We have four in the Office of Production Management, when all the studies of our Defense Committee have indicated that centering responsibility is the only way to accomplish the things which we desire.

Now we are proposing to create a statutory power of priorities, not of procurement; it is distinct from that; and, unless we can concentrate that power in one man, we are going to continue the present unfortunate course, which certainly is not accomplishing all that we desire.

Mr. AUSTIN. I recognize the validity of the views of the Senator from Maine. I think if we were starting now "at scratch," and had it in our power to set up the plan ourselves, I would much prefer the one-man type of organization to the dual-headed organization. I would very much prefer it because of several considerations, one of which is the probability of avoiding delays from the conflict of view. I believe that efficiency and expedition and other elements would be promoted by centralizing in one person the supreme control. So, if we were "starting from scratch," I would be with the Senator from Maine on that, but we are not "starting from scratch"; we are dealing with a condition of affairs which we have already created by Public Law 671 of the Seventy-sixth Congress, in which the following language occurred:

And deliveries of material under all orders placed pursuant to the authority of this section and all other naval contracts or orders and all Army contracts and orders shall, in the discretion of the President, take priority over all deliveries for private account or for export.

That is what we are dealing with; it is that authority which we passed over to the President in Public Law No. 671 of the Seventy-sixth Congress. We find now that it was not adequate to take care of the entire energy of the country which we now realize it is necessary to enlist in this great effort, and that we must have some way of taking care of civilian enterprise.

We say that a certain proportion of natural products are consumed in the development and production of Army and military equipment, and there is left a residue which is not adequate to take care of all the civilian demands. How are we going to maintain order, how are we going to continue to do justice and equity, if we do not have some power somewhere to quota that residue among all the civilians who are rushing and struggling to get there first, and to

get all they can of the material? So, to try to restore order in any industry, to try to conserve resources, to try to do justice and to keep peace among the people, all those objectives are contained in the establishment of the same power in the same body over the balance which is available to civilians as has already been created with respect to contracts and demands of the Military and Naval Establishments.

Mr. HILL. Mr. President, with respect to the War Department plans, let me say that of course it was impossible for the men making these plans some years ago to foresee many things that have come to pass. For instance, 2 or 3 or 4 or 5 or 10 years ago who in the wide world could have foreseen the enactment of the lend-lease bill? We are confronted today with many things, but the paramount and the compelling need is for speed and more speed in our production; and it would be most unfortunate to adopt the House amendment or adopt any amendment to this bill which would in any way cause delay, which would in any way interfere with the present harmony, coordination, and efficiency with which the production program is being carried out.

I very much hope the recommendation of the Senate committee, made unanimously by the membership of that committee, will be agreed to, and the House amendment will be voted down, and the bill passed.

Mr. DANAHER. Mr. President, will the Senator yield?

Mr. HILL. Yes; I yield.

Mr. DANAHER. I should like to invite the attention of the Senator from Alabama to page 2 of the bill, beginning in line 24 and going to the end of the sentence at the top of page 3, specifically calling his attention to the following language:

The President shall be entitled to * * * make such inspection of the premises of any person, firm, or corporation as may be necessary or appropriate, in his discretion, to the enforcement or administration of the provisions of this section.

Does the Senator know any reason why we cannot properly add a proviso to that sentence to the effect that the dwelling of no person shall be inspected or searched other than in accordance with the provisions of title XI of the Espionage Act of June 15, 1917?

Mr. HILL. Mr. President, so far as a dwelling or home is concerned, I know no reason why there should be any need for an inspection there. I do not think any manufacturer could haul away very much stuff and put it in his house, and I do not think it is contemplated under this language in the bill to inspect people's private homes. Of course, it has in mind only their plants shall be inspected, to determine what stock they may have on hand, what their productive capacity may be, and all these things that we must know about if we are to have the right kind of priorities system. So far as a dwelling house is concerned, I know no reason why that amendment should not go in. I have no objection to the amendment. I do not think it is necessary at all, but if it will make the Senator happier in voting for the bill I know no rea-

son why the amendment should not be adopted.

Mr. DANAHER. I thank the Senator. Mr. TAFT. Mr. President, I have listened with interest to the Senator from Alabama [Mr. HILL], and I agree with him in general on the question of this particular amendment. I do not believe the provision put in the House bill is a wise way of dealing with the situation. On the other hand, I also agree that we need additional powers to order priorities, so I do not intend to oppose the bill; but I think the time has come to criticize the method which is now pursued, is carried out in this bill, and has been carried out before, in setting up the emergency organizations of the United States Government.

This bill does not prescribe that the Division of Priorities shall be in the O. P. M. It simply gives the President power to put it anywhere he chooses to put it; and up to this time he has steadily created new bureaus for practically every purpose, until today we have a whole series of coordinate bureaus. The O. P. M., which was touted when we changed the Council of National Defense in November, has been steadily cut down in its powers. Other coordinate bureaus have been created. We are getting further and further from the theory of a War Resources Administration with a single head, which was prescribed by the industrial mobilization plan; and it seems to me it is up to Congress today to develop a plan of organization for the emergency division with reasonable elasticity, but with some kind of definite system prescribed.

The situation which is created today is exceedingly complicated and almost impossible to understand. The President is creating a whole series of bureaus in his own Executive Office, a kind of superbureaucracy, over and above and separate from all the departments of the Government which Congress has established.

In the Executive Office today there are six different divisions, of which one is the Office for Emergency Management. They are, according to the Executive order—

First. The White House Office.

Second. The Bureau of the Budget.

Those are set up by Congress.

Third. The National Resources Planning Board. The authority of that Board is exceedingly limited. Its statutory authority is not definite. We have appropriated money for it on the theory that it was a continuation of somebody to study unemployment.

Fourth. The liaison office for personnel management. I do not know what that is.

Fifth. The Office of Government Reports. That is not authorized, although we are now asked to authorize it by a bill before this body.

Sixth. In the event of a national emergency, the Office for Emergency Management.

The Office for Emergency Management seems to be a purely paper organization, with a gentleman named Wayne Coy, one of the President's secretaries as the head of the Office. Under him there are six or

seven different offices and bureaus that have been created in the past month or two. One of them is the Office of Production Management. That is the main body. In my opinion, that ought to be a predominant body, a body with a single head under whom can be arranged all the various emergency departments of the Government; but that is not so. It is merely one of a coordinate series of bureaus which have been created since the O. P. M. For instance, the whole subject of housing was taken away from the O. P. M. and a Coordinator of Defense Housing was set up, in addition to four or five different housing bureaus that already exist; and the O. P. M. today has nothing whatever to say about the production of materials for housing or how the priorities for housing may be determined.

Then we have the National Defense Mediation Board, which is entirely independent, and independent of other labor organizations.

Then we have something called the Division of Defense Aid Reports, which has been created separately, apparently to deal with some features of the lease-lend organization, under Major General Burns, who also is entirely independent of the O. P. M.

Then we have something called the other bureau created or to be created under Harry Hopkins to administer the Lease-Lend Act. When the lease-lend bill was before us we were told that that was to be coordinated, presumably under the O. P. M.; but we have a separate bureau, and the O. P. M. has nothing to do with the production of the lease-lend materials for Britain, so far as I can discover.

There is now talk of an additional bureau of home defense, under which many other organizations are to be provided. Last year when the bills were before us, the able Senator from Vermont offered an amendment, and I offered an amendment, urging at that time that we try to coordinate the defense activities under one head. As the Senator from Maine has pointed out, that has been prescribed for years by the defense mobilization plan. The Army and the Navy themselves have a program. Every government in the World War found that before they could become efficient in the war they had to have some kind of a division of munitions.

This defense plan provides:

All economic functions which must be exercised in time of war are interrelated and interdependent. It is therefore highly important that one major emergency agency be created to coordinate the performance of these functions and that other agencies be set up only as the necessity arises to supplement the work of the key agency.

Those are the words of the Secretary of War and the Secretary of the Navy in the report brought up to 1939. The report proceeds:

It is considered highly desirable that the key superagency for wartime industrial coordination should be the War Resources Administration. In order that, wherever possible, planned measures may anticipate the problems which will inevitably arise to disrupt our national war economy, the War

Resources Administration in skeleton form should be set up as early as practicable. * * * The War Resources Administration should serve not only to facilitate the transition from a peace to a war economy but, pending the establishment of other suggested superagencies, it would, insofar as possible, perform those functions discussed later in detail * * *

This report has been entirely ignored, so far as the setting up of these bureaus is concerned. The result inevitably is confusion. I do not know whether under the pending bill this power to order priorities will be given to the O. P. M. After all, there is just as much logic for putting it somewhere else. They also have to order priorities for the Housing Administration, they also have to order priorities for the Army, and they also have to order priorities for the Navy. They have to order priorities for the lease-lend organization, under Mr. Hopkins. Perhaps Mr. Hopkins is the one who should handle the matter, or perhaps Mr. Coy, under the Federal Security Agency, if he is to coordinate the priorities of all these other bureaus which are created.

There is one other feature to which I wish to call attention, and that is the power with regard to the administration of labor problems today. We have the O. P. M. Mr. Sidney Hillman is active throughout the country. He has representatives in different parts of the country representing the O. P. M. in the settlement of labor disputes. We have the Conciliation Division of the Labor Department, under Mr. Steelman, I think it is. We have the National Labor Relations Board. I know of a strike threatened in Cincinnati today, in connection with which there are sitting in with the unions, which are disputing the control of a certain company, representatives of three agencies of the Government, a representative of the National Labor Relations Board, a representative of Sidney Hillman, of the O. P. M., who incidentally is and has been for a long time one of the leading C. I. O. leaders of Cincinnati, and a representative of the Department of Labor. They are sitting there to determine whether some form of election can be worked out.

It seems to me obvious that if we are to deal effectively with the labor problem, there must be someone in the Government who can speak with authority, who, when he lays down a proposition, is known to speak for the United States Government and for the President of the United States. This method of merely allotting to the President, whenever we create a new power, the power to give it to any agency he chooses, has worked out in complete confusion, and it seems to me it should be changed today by the enactment of a comprehensive law of some kind dealing with this problem.

The whole problem of price control under Mr. Henderson is certainly vitally important in the defense program. Certainly the O. P. M. must be vitally concerned with knowing what the prices of various raw materials are to be. Certainly it is something in which they should have a voice.

It seems to me that the President of the United States is utterly unable, physically unable, if you please, to coordinate

the work of a dozen different bureaus; that in this particular field there should be a bureau with a single head, or, if necessary, a board. The mobilization plan calls for a single head, and I think probably that is better; but certainly today, so long as we go on saying to the President, "You are the coordinator; you are the one who has to coordinate all these different defense agencies," it is inevitable that we are to have confusion in the administration of the defense program.

I introduced a bill to create a War Resources Administration. I do not know the inside requirements. It probably needs substantial amendment. It may be that in some way the economic control should be vested in one body, or the labor control in one body, but in any event it seems to me it is up to Congress to work out a skeleton plan, at least, with reasonable elasticity, to provide a single, coordinated, efficient control of the defense program. [Manifestations of applause in the galleries.]

The PRESIDING OFFICER (Mr. McFARLAND in the chair). The Chair must admonish the occupants of the galleries that they are required, under the rules of the Senate, to maintain order.

Mr. BREWSTER. Mr. President, my criticism of the pending measure would be rather for what it fails to do, than for what it does. In line with the discussion which has preceded these remarks, it is my feeling that the country is in quite a state of confusion as to what is going on. We have had representatives of the Office of Production Management before the committee investigating defense, and, after the somewhat rosy picture which was presented, we asked them more specifically for information as to what was the total production. This is a totalitarian age. We read about 1,500 planes a month as the maximum production, which is a record. But the country little realizes that in order to get adequate defense we require 2,000,000 items in a modern mechanized defense. One of them is 2,000,000 pairs of pants, because an army cannot fight without pants. So I asked the Office of Production Management to furnish us with the figures as to what was our total production, in contemplation, and in actual achievement. To me, the report was extremely disquieting, indicating that the failure to adopt a program of industrial mobilization was resulting most disastrously.

I am informed by the statistical division of the Office of Production Management that it was hoped that we would produce \$17,000,000,000 worth of defense materials this year, out of a total national income of \$85,000,000,000, 20 percent of our national resources dedicated to defense, compared with 50 percent in Germany and Britain at the present time.

But they further pointed out that during the first 3 months of this year our total production for defense was two billion and a half dollars, or at an annual rate of \$10,000,000,000, instead of \$17,000,000,000, which was the very modest estimate we originally designated.

They further pointed out that if we should, by stepping up our monthly pro-

duction from the first month on of the calendar year 1941, achieve a \$17,000,000,000 production this year, it would mean that in December this year we would be obliged to produce two billion and a half dollars' worth of defense materials, which was our total production for 3 months in the first period. In other words, as they indicate, it was an utterly impossible goal, and that rather than \$17,000,000,000 worth of things for defense this year, about the best we could hope for—and this was a month ago—was twelve to thirteen billion dollars' worth of defense materials.

Since the first quarter we have had our report for the month of April showing that production has declined rather than increased, as a result of various unfortunate developments with which we are familiar.

How is this related to the question we are here considering? Until someone is made responsible for accomplishing the result to which America has very definitely set its hand, with the almost unanimous approval of all the Members of Congress, in providing for our adequate defense, we are going to continue this policy of drift, until chaos and confusion multiplied will result in this country awakening to the fact that our chief protection against war today is the very weakness of our industrial production.

The reason we are not likely to have war in the next few months is because Mr. Hitler has no desire to stir us up. So long as we continue the present confusion, so long as we continue the present ineffective program of production, there is no reason to anticipate that Mr. Hitler will bother with us, until he has disposed of some more immediate problems he has upon his hands. I do not think any American is going to take very much pride in a recognition of the fact that our only protection at the present time is the very weakness of our defense.

Mr. President, we had Mr. Knudsen and all the other members of the Office of Production Management before our committee. Mr. Knudsen summed it all up. We asked each member as he came before us how this matter was working out, and one or another hesitated very definitely to criticize the organization of which he was a part. As the Secretary of War, Mr. Stimson, very modestly suggested, he was a member of the team, and he had to play ball. He did not repudiate the report of the War Industries Mobilization of his own department. He simply said he was a member of the team, doing the best he could, which was a very commendable attitude.

Originally there were seven members of the Advisory Commission on National Defense, whose only powers were to advise a body, whose only powers were to recommend. That was statutory. Every one agreed that it was a colossal failure throughout the 5 or 6 months it was trying to function last year.

Then we had the Office of Production Management, with four members, the Secretary of War, the Secretary of the Navy, Mr. Knudsen, and Mr. Hillman, a four-headed body which is unique in executive annals to accomplish results. We have been going along under that now

for some months, and I take it we are all concerned with our progress.

I have given the figures as to our total production to indicate that the situation is not calculated to be encouraging. So we asked Mr. Knudsen out of the 40 years of his industrial experience, how this program was working out. Mr. Knudsen was in a somewhat embarrassing position, like Mr. Stimson, but it seemed to me that his answer was a tribute to his power to compress a profound philosophic truth into very few words, because when I asked him to compare the functioning of the Advisory Commission of seven and the present Office of Production Management, this was what he said: "Well, there were seven, and now there are five." That was his complete answer to the question of whether or not we had accomplished that effective concentration of power which is imperative if America is to be protected, as I know, everyone in the Congress most desires.

Mr. President, that is why I feel that the bill we are now considering presents the most appropriate occasion to consider whether America is awake, whether America realizes the failure of our industrial mechanism to function in a way that is imperative if we are to be adequately prepared.

I know the Senator from Alabama is concerned about this, because in the greatest bottleneck of our defense, production of aluminum, he has made a contribution which will ultimately be recognized as calculated to solve in some measure that most critical point in our defense. Yet what did we find in the evidence of the last 2 days? In administering priorities, with which we are here concerned, as the Senator from Alabama has stated, there was constituted a voting committee of four members to consider priorities, one from the Army and one from the Navy, very properly to look after our defense, and that was right; but who were the other two members? One of them was one of those most vitally concerned with procuring aluminum for the product uses of the concerns with which he was associated, and when we examined the priorities we found that the organizations with which he was associated had 60 to 80 percent of their needs provided, while other organizations concerned with food, concerned with textiles, concerned with clothing, had 10 percent of their needs provided. I believe that no member of this body will desire that the determination of these matters shall be entrusted to persons with a very great private interest. Whether or not that will result under the provisions of this measure only time can tell.

I am one of those who do not believe that the President should be expected to assume all the responsibilities which are involved in the various powers we are bestowing. I believe the more quickly statutory administrators are created, with defined powers within the broad needs which are obviously necessary, the more quickly our Government and our economic system will begin to function in the way so imperatively required.

That is why I hope to see the Senator from Alabama and the others associated with him in our military defense soon present to us the fruits of their studies of the industrial mobilization plan carried on for 20 years, which are all available, and only waiting to be applied. I hope Mr. Daruch and all the others who are familiar with this plan will bring to us a concerted program that shall eliminate the confusion in council which is the inevitable result of the conditions which now prevail. In the consideration of this measure, with which I have no intention to disagree, I would be equally well satisfied if we created a statutory authority for priorities, striking out the last sentence, which provides mandatory powers in the Joint Army and Navy Munitions Board, because I am in full agreement with the committee as to the wisdom of the elimination of that control, but I would go much further than the committee now contemplates. I would follow the lessons of two decades, the fruits of our last tragic experience in war, as the Senator from Vermont [Mr. Austin] pointed out, when for 12 months after the crisis came we drifted along until we discovered that the concentration of industrial procurement was the only way that we could ever accomplish the results this country now desires. In that hope—and I almost say expectation—I trust the Senate will give attention to this problem without very much more delay.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment on page 3, lines 6 to 11, inclusive.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The next amendment of the Committee on Military Affairs, was, on page 3, line 12, to strike out:

"(3) The President may exercise any power, authority, or discretion conferred on him by this section through a Director of Priorities (in this paragraph called the 'Director'), whom he is authorized to appoint by and with the advice and consent of the Senate. The Director shall receive compensation at the rate of \$12,000 per annum, and is authorized to appoint and fix the compensation of such officers and employees as may be necessary to carry out his powers under this section. The Director shall exercise his powers under paragraphs (1) and (2) of this section with the assistance of industry committees, which he is hereby directed to establish and utilize, and upon the basis of information furnished to him by such industry committees and upon the basis of such other information as he deems pertinent. Such powers shall be exercised by the Director only after prior approval of such exercise by the Joint Army and Navy Munitions Board."

The amendment was agreed to.

Mr. DANAHER. Mr. President, I offer an amendment, which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment offered by the Senator from Connecticut will be stated.

The CHIEF CLERK. On page 3, line 2, after the word "section", it is proposed to insert:

Provided, No such inspection shall be made of any private dwelling, occupied as such,

without a warrant directing the search issued in accordance with the requirements of title XI, chapter 30, of the act of June 15, 1917 (Espionage Act).

Mr. HILL. Mr. President, I know of no objection to the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The bill is still before the Senate and open to further amendment. If there be no further amendments to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The question now is, Shall the bill pass?

The bill, H. R. 4534, was passed.

Mr. HILL. Mr. President, I move that the Senate insist on its amendments, request a conference with the House of Representatives thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. RYNNOLDS, Mr. JOHNSON of Colorado, Mr. HILL, Mr. AUSTIN, and Mr. BRIDGES conferees on the part of the Senate.

CALL OF THE ROLL

Mr. HILL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Ellender	Norris
Alken	George	O'Mahoney
Andrews	Gerry	Overton
Austin	Gillette	Pepper
Bailey	Glass	Radcliffe
Ball	Guffey	Reynolds
Bankhead	Gurney	Rosier
Barbour	Hatch	Russell
Barkley	Hayden	Schwartz
Bilbo	Herring	Shipstead
Bone	Hill	Smathers
Brewster	Holman	Smith
Bridges	Hughes	Spencer
Brown	Johnson, Calif.	Stewart
Bulow	Johnson, Colo.	Taft
Bunker	La Follette	Thomas, Okla.
Burton	Langer	Thomas, Utah
Butler	Lee	Truman
Byrd	Lodge	Tunnell
Byrnes	Lucas	Vandenberg
Capper	McCarran	Van Nuys
Chandler	McFarland	Wallgren
Clark, Idaho	McNary	Walsh
Clark, Mo.	Maloney	Wheeler
Connally	Mead	Wiley
Danaher	Murdoch	Willis
Downey	Murray	

The PRESIDING OFFICER. Eighty Senators have answered to their names. A quorum is present.

EXTENSION OF OPERATIONS OF DISASTER LOAN CORPORATION, ELECTRIC HOME AND FARM AUTHORITY, AND RECONSTRUCTION FINANCE CORPORATION

Mr. BROWN. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 306, Senate bill 1438.

The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The CHIEF CLERK. A bill (S. 1438) to extend the operations of the Disaster

Loan Corporation and the Electric Home and Farm Authority, to provide for increasing the lending authority of the Reconstruction Finance Corporation, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Michigan.

The motion was agreed to; and the Senate proceeded to consider the bill, which had been reported from the Committee on Banking and Currency with amendments.

The PRESIDING OFFICER. The clerk will state the first committee amendment.

The first amendment of the Committee on Banking and Currency was, on page 2, after line 4, to insert:

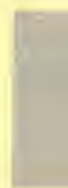
Sec. 3. (a) The first sentence of section 10 of the Reconstruction Finance Corporation Act, as amended, is hereby amended by inserting before the period at the end thereof the following: "except as provided in section 4 (a) of the Public Debt Act of 1941."

The amendment was agreed to.

The next amendment was, on page 2, line 11, after the word "is", to strike out "hereby" and insert "further"; at the end of line 12, to strike out "foregoing"; in line 13, after the word "exemptions", to insert "provided for in the preceding sentence"; in line 15, after the word "include", to strike out "sales taxes and use taxes", whether now, heretofore, or hereafter imposed, levied, or assessed, and whether for a past, present, or future taxing period, are hereby extended to apply with respect to Defense Homes Corporation, and" and insert "sales, use, storage, and purchase taxes"; in line 25, after the words "Reconstruction Finance Corporation", to insert "under section 5 (d) of this act, as amended"; on page 3, line 6, after the words "Reconstruction Finance Corporation", to insert "and"; in line 9, after the words "Reconstruction Finance Corporation" to strike out "The" and insert "Such exemptions shall also be construed to be applicable to the"; in line 12, after the word "any", to strike out "such corporation shall be construed as included within such exemptions" and insert "corporation referred to in clause (1), (2), or (3) of the preceding sentence" so as to read:

(b) Section 10 of the Reconstruction Finance Corporation Act, as amended, is further amended by adding at the end thereof the following new sentences: "The exemptions provided for in the preceding sentence with respect to taxation (which shall, for all purposes, be deemed to include sales, use, storage, and purchase taxes) shall be construed to be applicable not only with respect to the Reconstruction Finance Corporation but also with respect to (1) the Defense Plant Corporation, the Defense Supplies Corporation, the Metals Reserve Co., the Rubber Reserve Co., and any other corporation heretofore or hereafter organized or created by the Reconstruction Finance Corporation under section 5d of this act, as amended, to aid the Government of the United States in its national-defense program, (2) the R. F. C. Mortgage Co., the Federal National Mortgage Association, and any other public corporation heretofore or hereafter organized by or at the instance of the Reconstruction Finance Corporation, and (3) the Disaster Loan Corporation, and any other public corporation which is now or which may be hereafter wholly financed and wholly managed by the Reconstruction Finance Corporation. Such

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The VICE PRESIDENT. Without objection, the nominations of postmasters are confirmed en bloc.

THE JUDICIARY

Mr. CHANDLER. Mr. President, I ask unanimous consent that two nominations reported today from the Committee on the Judiciary, that of Judge McAllister to be judge of the United States Circuit Court of Appeals for the Sixth Circuit, and of Hon. Sherman Minton to be judge of the United States Circuit Court of Appeals for the Seventh Circuit, be confirmed.

The VICE PRESIDENT. The clerk will state the first nomination.

The legislative clerk read the nomination of Thomas F. McAllister to be judge of the United States Circuit Court of Appeals for the Sixth Circuit.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of Hon. Sherman Minton to be judge of the United States Circuit Court of Appeals for the Seventh Circuit.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

Mr. CHANDLER. I ask that the President be immediately notified of the two confirmations.

The VICE PRESIDENT. Without objection, the President will be forthwith notified.

RECESS

Mr. BARKLEY. As in legislative session, I move that the Senate take a recess until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 4 o'clock and 25 minutes p. m.) the Senate took a recess until tomorrow, Tuesday, May 20, 1941, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate May 19, 1941:

DIPLOMATIC AND FOREIGN SERVICE

Edward M. Groth, of New York, now a Foreign Service officer of class 3 and a secretary in the Diplomatic Service, to be also a consul general of the United States of America.

APPOINTMENT TO TEMPORARY RANK IN THE AIR CORPS, IN THE REGULAR ARMY OF THE UNITED STATES

TO BE MAJOR

Capt. Paul Ernest Ruestow, Air Corps.

NOTE.—The date of rank is omitted as the death or other unforeseen change in status of a senior officer might require a change in the date of rank and necessitate the renomination of this officer.

APPOINTMENTS, BY TRANSFER, IN THE REGULAR ARMY OF THE UNITED STATES

TO AIR CORPS

First Lt. Charles Albert Piddock, Field Artillery (captain, Army of the United States), with rank from August 1, 1935.

Second Lt. Karl Tweeten Rauk, Quartermaster Corps, with rank from June 11, 1940.

PROMOTION IN THE REGULAR ARMY OF THE UNITED STATES

TO BE COLONEL WITH RANK FROM MAY 12, 1941

Lt. Col. Lloyd Baxter Bennett, Infantry (colonel, Army of the United States). This officer is subject to the examination required by law.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 19, 1941:

UNITED STATES CIRCUIT COURT OF APPEALS

Thomas F. McAllister to be judge of the United States Circuit Court of Appeals for the Sixth Circuit.

Sherman Minton to be judge of the United States Circuit Court of Appeals for the Seventh Circuit.

COLLECTOR OF CUSTOMS

Harry M. Durning to be collector of customs for customs collection district No. 10, with headquarters at New York, N. Y.

UNITED STATES PUBLIC HEALTH SERVICE

Surgeon Carl E. Rice to be a senior surgeon in the United States Public Health Service.

POSTMASTERS

KENTUCKY

Nola B. Nicholson, Harlan.
Consuelo S. Bush, Shepherdsville.

HOUSE OF REPRESENTATIVES

MONDAY, MAY 19, 1941

The House met at 12 o'clock noon.

The Very Reverend Harry C. Graham, O. P., national director of the Holy Name Society, delivered the following prayer:

Almighty and Merciful God, grant the leaders of this great Nation the wisdom and grace to know Thy will at all times and especially at this moment of crisis. Let us seek again the teachings and example of thy Divine Son, whom Thou sent to us to be our guide and our salvation. Let us find in the inspired words of Thy Scriptures the "way, the truth, and the light" which Thou hast pointed out—the way in our dangerous and uncharted course, the truth in our blindness and ignorance, the light in our darkness. Give us the strength to set aside unworthy and mixed motives, when so much is at stake, so that in spite of our transgressions, we may return to Thy law and upon it make secure this democratic government which Thou hast given us. Let us save the good and seemingly things in our way of life, and build it ever fuller and richer according to Thy laws—and if we are worthy, let us do what is pleasing to Thee in saving our brothers throughout the world. Through Jesus Christ, our Lord. Amen.

The Journal of the proceedings of Friday, May 16, 1941, was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Frazier, its legislative clerk, announced that the Senate had passed without amendment a bill of the House of the following title:

H. R. 3538. An act to amend the act entitled "An act granting certain lands to the city of Biloxi, in Harrison County, Miss., for park and cemetery purposes," approved April 28, 1906.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 879. An act relating to certain Carey Act lands in Wyoming; and

S. 1438. An act to extend the operations of the Disaster Loan Corporation and the Electric Home and Farm Authority, to provide for increasing the lending authority of the Reconstruction Finance Corporation, and for other purposes.

The message also announced that the Senate had passed, with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H. R. 4534. An act to amend the act approved June 28, 1940, entitled "An act to expedite the national defense, and for other purposes," in order to extend the power to establish priorities and allocate material.

The message also announced that the Senate insists upon its amendments to the foregoing bill, requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. REYNOLDS, Mr. JOHNSON of Colorado, Mr. HILL, Mr. AUSTIN, and Mr. BRIDGES to be the conferees on the part of the Senate.

EXTENSION OF REMARKS

Mr. BRYSON. Mr. Speaker, I ask unanimous consent to revise and extend my own remarks in the RECORD and to include a speech I made in Birmingham, Ala.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. DONDERO. Mr. Speaker, I ask unanimous consent to revise and extend my own remarks in the Appendix of the RECORD and to include a resolution passed by the Port Commission of Detroit relative to the St. Lawrence seaway.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. RUTHERFORD. Mr. Speaker, I ask unanimous consent to revise and extend my own remarks in the RECORD and to include an editorial from the Philadelphia Sunday Dispatch in reference to the St. Lawrence seaway.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. MURRAY. Mr. Speaker, I ask unanimous consent to revise and extend my own remarks in the RECORD and include a radio address delivered by our colleague the gentleman from Missouri [Mr. BENNETT].

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. BOGGS. Mr. Speaker, I ask unanimous consent to revise and extend my own remarks in the RECORD and to include an address by Hon. Sam H. Jones on the occasion of his first anniversary as Governor of Louisiana.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. FOGARTY. Mr. Speaker, I ask unanimous consent to revise and extend my own remarks in the RECORD and to include an editorial from the Rhode Island Free Press.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. CULKIN. Mr. Speaker, I ask unanimous consent to revise and extend my own remarks in the RECORD and to include therein a radio address broadcast by myself.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. CASE of South Dakota. Mr. Speaker, I ask unanimous consent to revise and extend my own remarks in the Appendix of the RECORD and to include two articles relating to Gutzon Borglum.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

FRENCH POSSESSIONS IN WESTERN HEMISPHERE

Mr. CASE of South Dakota. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. CASE of South Dakota. Mr. Speaker, today I propose to introduce the following resolution:

Be it enacted, etc., That the Secretary of State is hereby authorized and directed to institute negotiations with the Government of France looking toward the acquisition by the United States of the French possessions in the Western Hemisphere, particularly the Islands of Martinique, Guadeloupe, St. Pierre, Miquelon in the Atlantic Ocean, Clipperton in the Pacific Ocean, and the Province of French Guiana in South America, together with such ships, airplanes, and cargoes as the French Government may care to sell, and to pay therefor with gold, food, commodities, and credits as herein provided.

SEC. 2. The Secretary of State shall report the results of such negotiations to the President at the earliest possible date, and upon approval by him, shall prepare a treaty, subject to ratification by the Senate, for such acquisition. To meet the costs of acquisition, the Secretary of State is authorized to draw from the stabilization fund administered by the Secretary of the Treasury such gold as may be required and to transfer from the commodities held by the Commodity Credit Corporation such commodities as may be required: *Provided*, That the total value of gold and commodities transferred shall not exceed in dollar value an amount equal to the area price paid for the Virgin Islands plus a reasonable replacement value for physical improvements, ships, airplanes, and cargoes transferred, and that the amount of compensation agreed upon in excess of such a total shall be paid by crediting on any loans now in default to the United States by the Government of France.

UNITED STATES GOOD-NEIGHBOR POLICY

Mr. YOUNG. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. YOUNG. Mr. Speaker, this Nation is fortunate that Cordell Hull has been our Secretary of State. History will record the good-neighbor policy as his greatest achievement. For many years the United States was the surly bully of the Western Hemisphere. Since this ad-

ministration came into office, Cordell Hull, as Secretary of State, has done away with dollar diplomacy. The United States is now the good neighbor to Mexico and the republics of Central and South America. The United States can be a better neighbor. We must first have a real understanding of how the people of the South American republics feel toward us. We want their loyalty and their friendship. We must continue our reciprocal trade agreements with the republics of South America and liberalize these agreements. As a step toward proving our friendship our leaders in Congress and in the administration might well prevail upon Great Britain to return to the Argentine Republic the Falkland Islands which the British seized about a century ago. These islands are directly off the most southerly coast of the Argentine and that Republic has always disputed the British right to the Falklands. Great Britain has a habit of asking all-out aid and giving nothing in return. The British should be glad to cede Great Britain's claim to the Falkland Islands to the Argentine Republic as a token of real friendship to the Americas. Were this Nation to accomplish this our South American republics would hail us as the benefactor of the North.

This Nation should set up machinery for the development of cultural and economic relations of every kind between the United States and the nations to the south of us.

We must realize that in many of these countries the concept of hemisphere solidarity is little more than a myth. South Americans somehow must be made to see the advantages of cooperating with us. The air transportation facilities presently existing between our several countries should be greatly extended and increased.

The propaganda machine of Hitler must be beaten. Propaganda has become one of the most powerful weapons of war. Our propaganda should therefore be much greater in volume and superior in quality to our present output. If this makes it necessary for the Government itself to engage in radio broadcasts, then this should be done.

Our military missions to these countries should be increased. The possibilities along this line have scarcely been touched. A far more intensified system of military and naval exchange between our countries should be worked out.

To further promote good feeling between the various countries of South America and this Nation the Office of Government Reports should print and we should distribute publications in Spanish and Portuguese. Possibly some of our national magazines could be induced to print Latin-American editions, even though this Nation had to provide some subsidy for the purpose.

It would seem advisable for us to make it possible for South American countries to get from us at low cost textbooks written in their own languages for use in their public schools.

Mexico and Argentina have nothing in common except the language. Brazil is as different from Costa Rica as Italy is

from Bulgaria. We must consider these facts. Congress and officials in the State Department should intelligently and tactfully promote Western Hemisphere solidarity and unity. We covet no part of South America.

DEFENSE PRIORITIES

Mr. VINSON of Georgia. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 4534) to amend the act approved June 28, 1940, entitled "An act to expedite the national defense, and for other purposes," in order to extend the power to establish priorities and allocate material, with Senate amendments, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Georgia? [After a pause.] The Chair hears none and appoints the following conferees: MESSRS. VINSON of Georgia, DREWRY, and MAAS.

A BRIGHT OUTLOOK

Mr. NELSON. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Missouri [Mr. NELSON]?

There was no objection.

Mr. NELSON. Mr. Speaker, we frequently hear the expression "blue Monday." At this time of distress, doubt, and darkness many talk too much about what is wrong with the world. This morning in the New York Times I came across these headlines, which indicate that there are a lot of good things going on at this time. I read:

Wheat above \$1 on loan outlook.

Corn futures rise to 4-year peak.

Inmates of Atlanta prison double output of defense work after appeal to patriotism.

Vast throng jams the Mall to cheer American Day fete.

Order men to pass coast picket line.

Strike of miners in hard-coal field seen ending today.

So, Mr. Speaker, I offer these cheering captions as a cure for blue Monday.

[Here the gavel fell.]

DR. RUTH GRUBER

Mr. BULWINKLE. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include a letter from Dr. Cressey, of Syracuse University, at Syracuse, N. Y., and also to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina [Mr. BULWINKLE]?

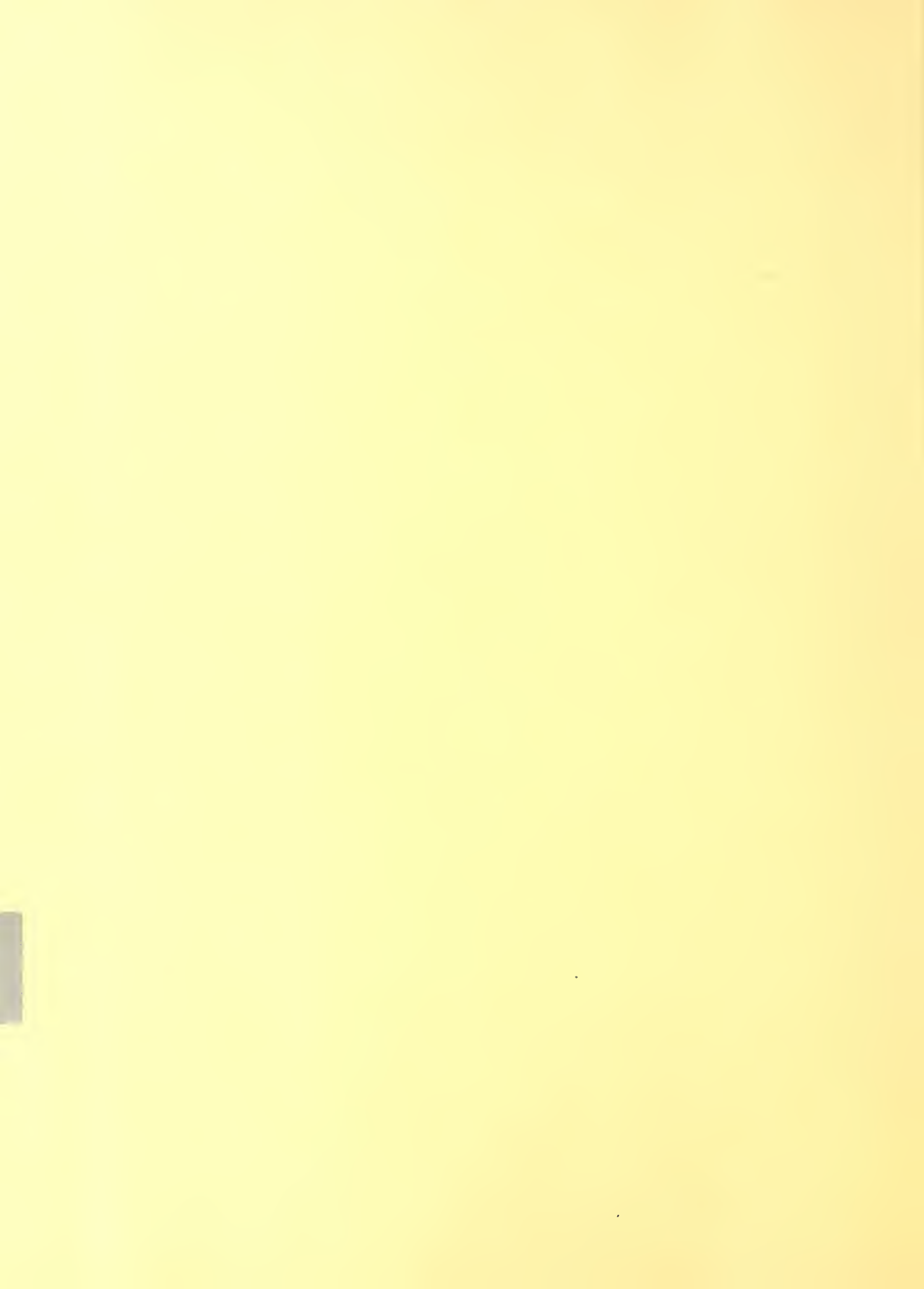
There was no objection.

Mr. BULWINKLE. Mr. Speaker, last week the Interior Department appropriation bill was before the House for consideration, and while in the Committee of the Whole the gentleman from New York offered this amendment:

No part of the funds appropriated in this act shall be paid to Dr. Ruth Gruber.

And he stated in his remarks after offering the amendment:

I feel there is a responsibility upon the part of the House to see to it that the propagation of communism is stopped by the Interior Department.



EXTENSION OF POWER TO ESTABLISH PRIORITIES AND ALLOCATE MATERIALS

MAY 21, 1941.—Committed to the Committee of the Whole House on the state
of the Union and ordered to be printed

Mr. VINSON of Georgia, from the committee of conference, submitted
the following

CONFERENCE REPORT

[To accompany H. R. 4534]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 4534) to amend the act approved June 28, 1940, entitled "An act to expedite the national defense, and for other purposes," in order to extend the power to establish priorities and allocate material, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 1.

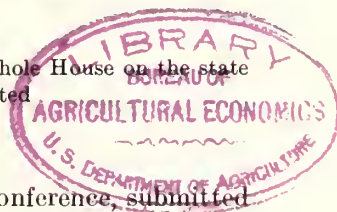
That the House recede from its disagreement to the amendments of the Senate numbered 2 and 3, and agree to the same.

CARL VINSON,
P. H. DREWRY,
MELVIN J. MAAS,

Managers on the part of the House.

ROBT. R. REYNOLDS,
ED. C. JOHNSON,
LISTER HILL,
WARREN R. AUSTIN,
STYLES BRIDGES,

Managers on the part of the Senate.



STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two House on the amendments of the Senate to the bill (H. R. 4534) to amend the act approved June 28, 1940, entitled "An act to expedite the national defense, and for other purposes," in order to extend the power to establish priorities and allocate material, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

AMENDMENT NO. 1

The House bill provided that the President should be entitled to obtain such information from, require such reports by, and make such inspection of the premises of, any person, firm, or corporation as might be necessary or appropriate, in his discretion, to the enforcement or administration of the provisions of the bill.

Senate amendment numbered 1 provided that no such inspection should be made of any private dwelling, occupied as such, without a warrant directing the search issued in accordance with title XI of the Espionage Act of June 15, 1917.

The Senate recedes.

AMENDMENTS NOS. 2 AND 3

The House bill provided that the President might exercise any power, authority, or discretion conferred on him by the bill through a Director of Priorities, whom he was authorized to appoint by and with the advice and consent of the Senate. The Director was to receive compensation at the rate of \$12,000 per annum, and was authorized to appoint and fix the compensation of such officers and employees as were necessary to carry out his powers under the bill. The Director was to exercise his powers with the assistance of industry committees, which he was directed to establish and utilize, and upon the basis of information furnished to him by such industry committees and upon the basis of such other information as he deemed pertinent. Such powers were to be exercised by the Director only after prior approval of such exercise by the Joint Army and Navy Munitions Board.

Senate amendment numbered 3 strikes out this provision of the House bill, and Senate amendment numbered 2 authorizes the President to exercise any power, authority, or discretion conferred on him by the bill through such department, agency, or officer of the Government as he may direct and in conformity with any rules and regulations which he may prescribe.

On both Senate amendments numbered 2 and 3 the House recedes.

CARL VINSON,
P. H. DREWRY,
MELVIN J. MAAS,

Managers on the part of the House.



Mr. TABER. Mr. Speaker, the conference committee has brought back this report with a saving of three-fourths of the additions that were put on by the Senate. [Applause.] The result has been such that I feel I ought to compliment the gentleman from Indiana [Mr. LUDLOW] and the gentleman from Kentucky [Mr. O'NEAL] upon the efforts they made in conference. [Applause.] They were such that the gentleman from Pennsylvania [Mr. RICH], the gentleman from Wisconsin [Mr. KEFE], and myself very gladly joined in signing the conference report.

At this time this country is facing a crisis. We are having all sorts of demands made upon the Treasury in the alleged name of national defense, all sorts of things that are not defense, all sorts of demands that just result in waste of the people's money. The country is facing a tax bill of \$3,500,000,000, which I believe is needed if we are to keep the Treasury right side up and meet defense needs. The example that the gentleman from Indiana [Mr. LUDLOW] and the gentleman from Kentucky [Mr. O'NEAL] have set in the efforts they have made on this bill can well be followed by other Members of this House in their conferences and in their work upon bills that take money out of the Treasury. Let us keep them down far enough so that we can help in the Appropriations Committee and in the House to reduce the demands upon the Treasury, and help as far as we can to land the Treasury right side up. [Applause.]

The SPEAKER. The question is on agreeing to the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

EXTENSION OF POWER TO ESTABLISH PRIORITIES AND ALLOCATE MATERIALS

Mr. VINSON of Georgia. Mr. Speaker, I call up conference report on the bill (H. R. 4534) to amend the act approved June 28, 1940, entitled "An act to expedite the national defense, and for other purposes," in order to extend the power to establish priorities and allocate material, and ask unanimous consent that the statement may be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the statement.

The conference report and statement are as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 4534) to amend the act approved June 28, 1940, entitled "An act to expedite the national defense, and for other purposes," in order to extend the power to establish priorities and allocate material, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 1.

That the House recede from its disagreement to the amendments of the Senate numbered 2 and 3, and agree to the same.

CARL VINSON,

P. H. DEWEY,

MELVIN J. MAAS,

Managers on the part of the House.

ROBT. R. REYNOLDS,

ED C. JOHNSON,

LISTER HILL,

WARREN R. AUSTIN,

STYLES BRIDGES,

Managers on the part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 4534) to amend the act approved June 28, 1940, entitled "An act to expedite the national defense, and for other purposes," in order to extend the power to establish priorities and allocate material, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

Amendment No. 1

The House bill provided that the President should be entitled to obtain such information from, require such reports by, and make such inspection of the premises of, any person, firm, or corporation as might be necessary or appropriate, in his discretion, to the enforcement or administration of the provisions of the bill.

Senate amendment numbered 1 provided that no such inspection should be made of any private dwelling, occupied as such, without a warrant directing the search issued in accordance with title XI of the Espionage Act of June 16, 1917.

The Senate recedes.

Amendments Nos. 2 and 3

The House bill provided that the President might exercise any power, authority, or discretion conferred on him by the bill through a Director of Priorities, whom he was authorized to appoint by and with the advice and consent of the Senate. The Director was to receive compensation at the rate of \$12,000 per annum, and was authorized to appoint and fix the compensation of such officers and employees as were necessary to carry out his powers under the bill. The Director was to exercise his powers with the assistance of industry committees, which he was directed to establish and utilize, and upon the basis of information furnished to him by such industry committees and upon the basis of such other information as he deemed pertinent. Such powers were to be exercised by the Director only after prior approval of such exercise by the Joint Army and Navy Munitions Board.

Senate amendment numbered 3 strikes out this provision of the House bill, and Senate amendment numbered 2 authorizes the President to exercise any power, authority, or discretion conferred on him by the bill through such department, agency, or officer of the Government as he may direct and in conformity with any rules and regulations which he may prescribe.

On both Senate amendments numbered 2 and 3 the House recedes.

CARL VINSON,

P. H. DEWEY,

MELVIN J. MAAS,

Managers on the part of the House.

Mr. VINSON of Georgia. Mr. Speaker, I may state to the House that the effect of the conference report is the rejection of what was known as the Cox amendment when the priorities bill was before the House. As the Members will recall,

my colleague from Georgia offered an amendment seeking to give statutory existence to the Priorities Division of the O. P. M.; also that the Director of the Priorities Division be confirmed by the Senate and that the Priorities Division be subordinated to the jurisdiction of the Joint Army and Navy Munitions Board.

I appeared before the Committee on Military Affairs of the Senate, where this bill was sent, and did my level best to convince that committee that the position of the House was well founded. Mr. Knudsen, Mr. Stettinius, and Judge Patterson, of the War Department, as well as representatives of the Navy Department, were very much opposed to the amendment, so the Senate Military Affairs Committee rejected the amendment. When we went to conference yesterday I offered a compromise proposition, and I regret that the conferees on the part of the Senate would not adhere to the House proposition. So there was nothing we could do except recede, as we cannot afford to hold up the bill simply because of this one question involved, as it simmered down to, which question was whether or not the Director should be confirmed by the Senate.

Mr. SABATH. Mr. Speaker will the gentleman yield?

Mr. VINSON of Georgia. Yes.

Mr. SABATH. Does the gentleman say that the conferees agreed to some compromise proposition?

Mr. VINSON of Georgia. Oh, no; I stated that the conferees rejected a compromise that I offered and that the bill is just as it was when I introduced it.

Mr. SABATH. But the amendment adopted in the House is eliminated?

Mr. VINSON of Georgia. Yes.

Mr. DIRKSEN. Mr. Speaker, will the gentleman yield?

Mr. VINSON of Georgia. Yes.

Mr. DIRKSEN. Assuming, for instance, where the flow of material is restricted to the point where an existing industry simply cannot control operations, is there any provision under which there may be redress, or at least an appeal?

Mr. VINSON of Georgia. From the Director?

Mr. DIRKSEN. From the action of the Director.

Mr. VINSON of Georgia. The manufacturer could probably appeal to the Director of the O. P. M., which is practically the same thing, of course. There is no other agency to which he could appeal, unless he makes his appeal directly to the President of the United States.

Mr. MAAS. The bill gives the power to the President of the United States.

Mr. DIRKSEN. May I point out to the gentleman from Georgia that the Merchant Marine and Fisheries priorities bill, on the floor this week, provided that it would be possible to issue a warrant under such condition that it would be impossible for a man to refuel or repair his vessel, so that for all purposes they could put an individual entirely out of business? There was a penalty clause there of \$5,000 and no redress whatever.

Mr. VINSON of Georgia. There is no penalty clause in this. The main objective of this is to make it obligatory and

mandatory on the part of the manufacturer to give priority, thereby relieving him of a legal liability for doing so.

Mr. DIRKSEN. Is it not the gentleman's opinion that Congress ought to be reasonably cautious here in the granting of extraordinary powers, at least to the extent of preserving the right of appeal?

Mr. VINSON of Georgia. Oh, yes. I did my level best; and if I had my way the O. P. M. would exist by virtue of statute, but unfortunately I am but one man and cannot do anything else.

Mr. Speaker, if there is no further question, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on agreeing to the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

OVERTIME RATES OF COMPENSATION FOR CERTAIN EMPLOYEES

Mr. ANDREWS. Mr. Speaker, yesterday when the chairman of the Committee on Military Affairs, the gentleman from Kentucky [Mr. MAY], called up the bill H. R. 4739, authorizing overtime rates of compensation for certain per annum employees of the field services of the War Department, the Panama Canal, the Navy Department, and the Coast Guard, and providing additional pay for employees who forego their vacations, an objection was interposed on this side which prevented the passage of the bill. I understand that objection has been withdrawn. I ask unanimous consent that the bill be now taken up for immediate consideration.

The SPEAKER. The Clerk will report the bill.

The Clerk reported the title of the bill.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The SPEAKER. A similar Senate bill is on the Speaker's table.

Mr. ANDREWS. Mr. Speaker, I ask unanimous consent that the similar Senate bill be substituted.

The SPEAKER. Is there objection?

Mr. CASE of South Dakota. Mr. Speaker, reserving the right to object, will the gentleman state whether or not this bill modifies in any way the language relating to employment in the Canal Zone, as embodied in the paragraph dealing with that subject in the appropriation bills?

Mr. MAY. I did not understand the gentleman's question.

Mr. CASE of South Dakota. In the appropriation bills dealing with employment in the Canal Zone we have a special paragraph that deals with that employment. Is there anything in this bill that changes the provision in the appropriation bills?

Mr. MAY. No; I think not. It merely provides for payment for vacation time, when they work rather than take a vacation.

Mr. CASE of South Dakota. The reason I raised the question is because we had very extended consideration of that in the conference on the appropriation for the civil functions of the War Department and the Senate bill did make

some substantial changes. However, in conference it was agreed to hold to the House's version. I am wondering if in any way this upsets that agreement?

Mr. MAY. As I understand, it does not make any difference in the pay, except that it is an identical provision with the House provision on the subject of leave-of-absence pay.

The SPEAKER. Is there objection to the request of the gentleman from New York [Mr. ANDREWS]?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That compensation for employment in excess of 40 hours in any administrative workweek computed at a rate of $1\frac{1}{2}$ times the regular rate is hereby authorized to be paid, under such regulations as the President may prescribe, to those per annum employees in the field service of the War Department, the Panama Canal, the Navy Department, and the Coast Guard, whose overtime services are essential to and directly connected with the expeditious prosecution of the overtime work upon which the employees enumerated in section 5 (a) of the act of June 28, 1940, and section 1 of the act of October 21, 1940, are engaged: *Provided*, That in determining the overtime compensation of the foregoing per annum employees the pay for 1 day shall be considered to be one three-hundred-and-sixtieth of the respective per annum salaries.

Sec. 2. Employees of the field service of the War Department and the Panama Canal Zone may, during the period of the national emergency declared by the President on September 8, 1939, to exist, be employed during the time they would otherwise be on vacation without deprivation of their vacation pay for the time so worked. Employees who forego their vacations in accordance with the provisions of this section may be paid, in addition to their regular pay, the equivalent of the pay they would have drawn during the period of such vacation. The provisions of this section shall be applicable only to employees whose service at the time cannot, in the judgment of the Secretary of War or the Governor of the Panama Canal, as the case may be, be spared without detriment to the national defense.

Sec. 3. The provisions of section 2 of this act and of section 7 of the act of June 28, 1940 (Public No. 671), shall be administered in accordance with such rules and regulations as the President may prescribe.

Sec. 4. The provisions of this act shall be effective during the national emergency declared by the President on September 8, 1939, to exist, and shall terminate June 30, 1942, unless the Congress shall otherwise provide.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill, H. R. 4739, was laid on the table.

RIGHT-OF-WAY ACROSS CAMP WALLACE MILITARY RESERVATION, P. I.

Mr. MAY. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (S. 166) to provide a right-of-way across Camp Wallace Military Reservation, P. I.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of War be, and he is hereby, authorized and empowered, under such terms and conditions as

are deemed advisable by him, to grant to the Asiatic Petroleum Co. (Philippine Islands), Ltd., its successors and/or assigns, an easement for rights-of-way for oil and/or gasoline pipe lines, and appurtenant ramp for rolling drums, over, across, in, and upon the Camp Wallace Military Reservation, P. I.: *Provided*, That such easement shall be granted only upon a finding by the Secretary of War that the same shall be in the public interest of the United States in the property affected thereby: *Provided further*, That all or any part of such easement may be annulled and forfeited by the Secretary of War if the property is needed for governmental purposes or for failure to comply with the terms or conditions of any grant hereunder, or for nonuse or for abandonment of rights granted under authority hereof: *And provided further*, That all moneys which may accrue to the United States under the provisions of this act shall be deposited in the Treasury as miscellaneous receipts.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RIGHT-OF-WAY ACROSS CAMP WALLACE MILITARY RESERVATION, P. I.

Mr. MAY. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (S. 167) to provide a right-of-way across Camp Wallace Military Reservation, P. I., and I would like to state that it is identical with the other bill except that it relates to a different pipe line. It is reported favorably by the committee.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of War be, and he is hereby, authorized and empowered, under such terms and conditions as are deemed advisable by him, to grant to the Standard-Vacuum Oil Co., its successors and/or assigns, an easement for rights-of-way for oil and/or gasoline pipe lines over, across, in, and upon the Camp Wallace Military Reservation, Philippine Islands: *Provided*, That such easement shall be granted only upon a finding by the Secretary of War that the same will be in the public interest of the United States in the property affected thereby: *Provided further*, That all or any part of such easement may be annulled and forfeited by the Secretary of War if the property is needed for governmental purposes or for failure to comply with the terms or conditions of any grant hereunder, or for nonuse or for abandonment of rights granted under authority hereof: *And provided further*, That all moneys which may accrue to the United States under the provisions of this act shall be deposited in the Treasury as miscellaneous receipts.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PLANT PROTECTION FORCE FOR NAVAL SHORE ESTABLISHMENTS

Mr. SABATH. Mr. Speaker, I call up House Resolution 202, and ask for its immediate consideration.

The Clerk read as follows:

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state

Veterans of the United States at the annual memorial service held in New York City on May 18, 1941, which appears in the Appendix.]

BALANCING THE RISKS—ARTICLE BY STUART CHASE

[Mr. LA FOLLETTE asked and obtained leave to have printed in the Appendix an article by Stuart Chase entitled "Balancing the Risks," published in the Progressive of May 17, 1941, which appears in the Appendix.]

CAMPAIGN PLEDGES—EDITORIAL FROM SOUTH BEND (IND.) TRIBUNE

[Mr. NYE asked and obtained leave to have printed in the RECORD an editorial entitled "Destructive," published in the South Bend, (Ind.), Tribune of May 18, 1941, which appears in the Appendix.]

THE MIDDLE WEST AND WAR—EDITORIAL FROM THE PROGRESSIVE MINER

[Mr. NYE asked and obtained leave to have printed in the RECORD an editorial from the Progressive Miner entitled "The Middle West and War," which appears in the Appendix.]

MANNERS IN THE MODERN STYLE—ARTICLE BY GEORGE E. SOKOLSKY

[Mr. NYE asked and obtained leave to have printed in the RECORD an article by George E. Sokolsky entitled "Manners in the Modern Style," published in the New York Sun of April 15, 1941, which appears in the Appendix.]

DEFENSE PRIORITIES AND ALLOCATION OF MATERIAL—CONFERENCE REPORT

Mr. REYNOLDS. Mr. President, I submit the conference report on House bill 4534, which I ask to have read, and I respectfully request immediate consideration of the report.

The ACTING PRESIDENT pro tempore. The conference report will be read. The Chief Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 4534) to amend the act approved June 28, 1940, entitled "An act to expedite the national defense, and for other purposes," in order to extend the power to establish priorities and allocate material, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 1.

That the House recede from its disagreement to the amendments of the Senate numbered 2 and 3, and agree to the same.

ROBT. R. REYNOLDS,
ED C. JOHNSON,
LISTER HILL,
WARREN R. AUSTIN,
STYLES BRIDGES,

Managers on the part of the Senate.

CARL VINSON,
P. H. DREWRY,
MELVIN J. MAAS,

Managers on the part of the House.

The ACTING PRESIDENT pro tempore. Is there objection to consideration of the conference report?

Mr. McNARY. May I inquire of the Senator from North Carolina what is the nature of the report? There was so much disturbance in the Senate Chamber when the Senator from North Carolina spoke I could not hear him distinctly.

Mr. REYNOLDS. The conferees met to consider the measure which deals with priorities, and their report is now before

the Senate. I may say that several days ago the Assistant Secretary of War, Judge Patterson, together with members of his staff, appeared before the Senate Military Affairs Committee, at which time we considered the matter of priorities as it is now handled by one of the members of the O. P. M. staff. There was disagreement between the conferees on the part of the House and the conferees on the part of the Senate in relation to the permanency of the legislation. The Senate conferees receded in one instance, and the House conferees receded in two instances. The matter merely relates to confirmation of the authority which the O. P. M. has heretofore been exercising. The O. P. M. is desirous of having some statutory legislation with respect thereto.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the conference report? The Chair hears none. The question is on agreeing to the conference report.

The report was agreed to.

ORDER OF BUSINESS

Mr. BYRNES. Mr. President, the Senator from Oklahoma [Mr. LEE] announced to the Senate that he desired to address the Senate for a short time. I ask unanimous consent that at the conclusion of the speech of the Senator from Oklahoma the calendar be called for the consideration of bills to which there is no objection.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. NYE. Mr. President, reserving the right to object, I was quite prepared to wait until the call of the calendar had been completed before addressing the Senate for 6 or 7 minutes, but if there is to be any departure from that rule I shall insist upon being privileged to speak prior to the call of the calendar.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from South Carolina?

Mr. McNARY. Mr. President, I think it is understood that after the speeches shall all have been concluded we shall then take up the calendar.

APPROPRIATIONS FOR TREASURY AND POST OFFICE DEPARTMENTS—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore (Mr. GLASS). In his capacity as Senator from Virginia, the Chair submits a conference report on House bill 3205 and asks unanimous consent for its present consideration.

The report is as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 3205) making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1942, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, and 3.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 10, 11, 12, 13, 15, 19, 21, and 22; and agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows: In lieu of the sum proposed, insert "\$794,310"; and the Senate agree to the same.

Amendment numbered 5: That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: "six hundred and thirty-five inspectors"; and the Senate agree to the same.

Amendment numbered 6: That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows: In lieu of the sum proposed, insert "\$2,444,700"; and the Senate agree to the same.

Amendment numbered 7: That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows: In lieu of the sum proposed, insert "\$665,350"; and the Senate agree to the same.

Amendment numbered 8: That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows: In lieu of the sum proposed, insert "\$7,278,000"; and the Senate agree to the same.

Amendment numbered 9: That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows: In lieu of the sum proposed, insert "\$8,250,000"; and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows: In lieu of the sum proposed, insert "\$57,500"; and the Senate agree to the same.

Amendment numbered 16: That the House recede from its disagreement to the amendment of the Senate numbered 16 and agree to the same with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: "\$21,486,465, of which amount the sum of \$22,848 shall be immediately available"; and the Senate agree to the same.

Amendment numbered 17: That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows: In lieu of the sum proposed, insert "\$5,065,000"; and the Senate agree to the same.

Amendment numbered 18: That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows: In lieu of the sum proposed, insert "\$9,950,000"; and the Senate agree to the same.

Amendment numbered 20: That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment, as follows: In lieu of the sum proposed, insert "\$637,500"; and the Senate agree to the same.

CARTER GLASS,
PAT McCARRAN,
CARL HAYDEN,
JOSIAH W. BAILEY,
H. C. LODGE, JR.,

Managers on the part of the Senate.

LOUIS LUDLOW,
EMMET O'NEAL,
GEO. W. JOHNSON,
GEORGE MAHON,
JOSEPH E. CASEY,
JOHN TAHER,
FRANK B. KEEFE,
ROBERT F. RICH,

Managers on the part of the House.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the conference report?

Mr. THOMAS of Oklahoma. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. THOMAS of Oklahoma. Is the conference report subject to debate?

The ACTING PRESIDENT pro tempore. It is.

FOOD FOR THE SMALL DEMOCRACIES OF EUROPE

Mr. THOMAS of Oklahoma. Mr. President, I desire to occupy only a few moments. I have received a letter from former President Herbert Hoover expressing interest in the movement which he leads for furnishing supplies to some of the hungry people of Europe. About the same time I received that letter I received a communication from my own State, which I desire to have read at the desk, if I may.

The ACTING PRESIDENT pro tempore. Without objection, the letter will be read.

The Chief Clerk read as follows:

PRESBYTERY OF TULSA,
Tulsa, Okla., May 15, 1941.

Senator ELMER THOMAS,
Washington, D. C.

DEAR SENATOR THOMAS: The Presbytery of Tulsa, consisting of 32 Presbyterian ministers, and an elder representative from 22 churches in northeastern Oklahoma, in session at Nowata, went on record as favoring the Hoover plan for aid to the five small democracies of Europe, and instructed me to write to you stating this action taken.

We trust that you will do all in your power to further the purposes of those who are working for this cause.

Very truly yours,

GLENN O. CANFIELD,
Stated Clerk.

The ACTING PRESIDENT pro tempore. Without objection, the letter will be referred to the Foreign Relations Committee.

Mr. THOMAS of Oklahoma. Mr. President, after receiving these two communications I made an investigation, the result of which I desire to place on record. At this time I ask unanimous consent to have printed in the RECORD a copy of a news story under the heading "Mercy ship men wept at hunger of French boys," by Grace Robinson. I ask that it be printed in the RECORD at this point in connection with my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MERCY SHIP MEN WEPT AT HUNGER OF FRENCH BOYS

(By Grace Robinson)

When he saw American cake—cake left over from the crew's breakfast—the little French Boy Scout forgot his speech of welcome to the captain of the American Red Cross ship. He and his buddies gobbled every scrap. Chief Officer Edward Patrick Lebzelter, of the American Export Lines freighter *Exmouth*, related yesterday.

The *Exmouth* is back after delivering Red Cross food and clothing at Marseille—and crew members, who thought they were hard-boiled, are quite unashamed of tears that came when hungry children swarmed over their deck.

"DAMNED HUNGRY"

"If you're not hard-boiled, you could not help a couple of tears showing. And a lot of us who thought we were hard-boiled found out we weren't," said Lebzelter. "They're damned hungry over there. Darn near the whole town was out to meet us. They brought broadcasting mikes onto the ship."

"The chief steward prepared gallons of coffee for the visitors, and the women pitched in and washed dishes and helped pour. They hadn't seen real coffee with sugar for a long time."

When the head of the board of trade asked for needles and thread, the *Exmouth* crew handed over all they had. Fortunately, no one needed mending on the return trip.

THIRTY OR FORTY STOWAWAYS

Before they left Marseille on April 12, stowaways had secreted themselves aboard like hungry mice in a pantry. "We found 30 or 40," said Lebzelter. "They hid themselves everywhere from the crow's nest to the hold. We found 'em even in the lifeboats."

All were put ashore.

The *Exmouth* was obliged, also, to reject passage to two British intelligence officers who got on board one night.

"They told me they traveled 3,000 kilometers, mostly through enemy territory, to reach Marseille," said Lebzelter.

He said they wanted to stay aboard, and let the British at Gibraltar find them. Capt. Oscar Ljungstrom was obliged to refuse.

The *Yankee Clipper*, which arrived at LaGuardia Field, brought stories of even greater hunger in Spain.

James Wood Johnson, former president of the American Volunteer Ambulance Corps, said the vast majority of Spanish children were suffering from anemia, and "almost every child is suffering from some disease." Thousands will never return to normal, he said, and "the result of this prolonged malnutrition and anemia is loss of memory, physical incapacitation, and impossibility of sustained concentration."

He did not know "what kind of mothers the little Spanish girls would become. At present they are so stunted that their growth has been so stunted that their condition is horrible."

Mr. THOMAS of Oklahoma. On May 7 there appeared in the Washington Daily News a news story by William Philip Simms on the same subject. The heading of the article is "Hoover urges test of his plan to feed Europe's starving." I ask that the article be printed in the RECORD at this point as a part of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Daily News of May 7, 1941]

HOOVER URGES TEST OF HIS PLAN TO FEED EUROPE'S STARVING

(By William Philip Simms)

While the administration is seriously perturbed over the fate of the 50,000,000 people of the little invaded democracies of Europe, large numbers of whom are facing death from starvation and disease, it hesitates to run counter to London's objections to relief.

Speaking for Britain, Ambassador Lord Halifax has stated that any food sent through the blockade would help the Germans. Former President Herbert Hoover, on the other hand, has replied with a plan designed to meet every objection raised.

WOULD TRY EXPERIMENT

Postponing for the time being his efforts to get food through to all of the invaded de-

mocracies, Mr. Hoover now proposes to pick out just one community in one country and try out an experiment. The area chosen is one of the hardest hit in Belgium. In it are 3,000,000 starving women, children, and unemployed men. For his test he proposes that:

1. These people shall come to soup kitchens and eat on the spot.

2. The Germans shall supply 25,000 tons of wheat per month for the bread, which is calculated to replace ultimately more food to Belgium than the Germans have taken out.

3. The British shall allow 20,000 tons of soup materials and special food for children per month to pass through the blockade.

ONE DAY'S SUPPLY

4. Not more than 10,000 tons of imported soup materials shall be in Belgium at any one time, so that if the Germans were to seize it all, it would be less than 1 day's food supply for Germany.

5. The Germans shall guarantee not to sink mercy ships.

6. The whole operation shall be under neutral supervision on the spot.

7. If the Germans violate the agreement in any way, the effort will be stopped forthwith.

The Germans have accepted the plan. The British have turned it down. The American Government is on the fence.

Some of America's highest military and naval authorities, however, are for it. Gen. John J. Pershing said he has "every confidence that the salvation of these people can be worked out along the lines proposed by Mr. Hoover without military loss or benefit to either side." Admiral William V Pratt said the same thing.

The National Committee on Food for the Small Democracies, of which Mr. Hoover is the honorary chairman, says the Belgium trial would prove, once and for all, whether the relief plan is practical or not. If it isn't, it would be dropped. Thus no possible harm could come of it and it might do incalculable good.

The plan would cost the United States and Great Britain nothing. The little democracies have credits of their own in this country with which to pay cash for whatever they buy. It would take no ships from Britain's supply. Vessels now out of service would become available.

Under the proposal, less food, rather than more, would be the ultimate result for Germany. For Germany would have to return the equivalent of the basic foods already requisitioned and refrain from taking future supplies from the people, whether locally produced or imported.

The British Government has made no reply since Mr. Hoover's trial plan was accepted by the Germans. It is recalled that during the World War, London raised strenuous objections to relief in Belgium and occupied France but subsequently reversed itself completely. It not only agreed to the plan but helped to finance it to the tune of \$100,000,000. And when bottoms became scarce because of the U-boat campaign, and there was talk of taking over the mercy ships for the emergency, both London and Paris uttered an emphatic veto. Relief had to go on, regardless.

Part of the British thesis now is that when these people get hungry enough they will revolt against Germany. Military experts, however, reply that successful resistance is impossible where disarmament of a nation is complete.

Mr. THOMAS of Oklahoma. Mr. President, Mr. Hoover's organization is not asking for any support from Congress, save its good will and moral support. It is not asking for any money with which either to purchase supplies or transport them to Europe. As an explanation of the program now being pro-

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[PUBLIC LAW 89—77TH CONGRESS]

[CHAPTER 157—1ST SESSION]

[H. R. 4534]

AN ACT



To amend the Act approved June 28, 1940, entitled "An Act to expedite the national defense, and for other purposes", in order to extend the power to establish priorities and allocate material.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act approved June 28, 1940 (Public, Numbered 671, Seventy-sixth Congress), as amended, is amended by inserting "(1)" after "Sec. 2. (a)" and by adding at the end of subsection (a) thereof the following:

"(2) Deliveries of material to which priority may be assigned pursuant to paragraph (1) shall include, in addition to deliveries of material under contracts or orders of the Army or Navy, deliveries of material under—

"(A) contracts or orders for the Government of any country whose defense the President deems vital to the defense of the United States under the terms of the Act of March 11, 1941, entitled 'An Act to promote the defense of the United States';

"(B) contracts or orders which the President shall deem necessary or appropriate to promote the defense of the United States; and

"(C) subcontracts or suborders which the President shall deem necessary or appropriate to the fulfillment of any contract or order as specified in this section.

Deliveries under any contract or order specified in this section may be assigned priority over deliveries under any other contract or order. Whenever the President is satisfied that the fulfillment of requirements for the defense of the United States will result in a shortage in the supply of any material for defense or for private account or for export, the President may allocate such material in such manner and to such extent as he shall deem necessary or appropriate in the public interest and to promote the national defense. The President shall be entitled to obtain such information from, require such reports by, and make such inspection of the premises of, any person, firm, or corporation as may be necessary or appropriate, in his discretion, to the enforcement or administration of the provisions of this section. No person, firm, or corporation shall be held liable for damages or penalties for any default under any contract or order which shall result directly or indirectly from his compliance with any rule, regulation, or order issued under this section. The President may exercise any power, authority, or discretion conferred on him by this section, through such department, agency, or officer of the Government as he may direct and in conformity with any rules and regulations which he may prescribe."

Approved, May 31, 1941.

